

1 STATES UNITED DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 FERNANDO HERNANDEZ, KENNETH CHOW,
5 BRYANT WHITE, DAVID WILLIAMS, MARQUIS ACKLIN,
6 CECILIA JACKSON, TERESA JACKSON,
7 MICHAEL LATTIMORE, and JUANY GUZMAN, Each
8 Individually, And On Behalf Of All Other
9 Persons Similarly Situated,

10 Plaintiffs,

11 8 -against- Index No:
12 CV 4339 (ALC) (JLC)

13 9 THE FRESH DIET, INC., LATE NIGHT EXPRESS
14 COURIER SERVICES, INC. (FL), FRESH DIET EXPRESS
15 CORP. (NY), THE FRESH DIET - NY INC. (NY),
16 FRESH DIET GRAB & GO, INC. (FL) a/k/a
17 YS CATERING HOLDINGS, INC. (FL) d/b/a
18 YS CATERING, INC. (FL), FRESH DIET EXPRESS
19 CORP. (FL), SYED HUSSAIN, Individually,
20 JUDAH SCHLOSS, Individually, and ZAIMI DUCHMAN,
21 Individually,

22 14 Defendants.
23 -----x

24 15 EXAMINATION BEFORE TRIAL of
25 16 the Plaintiff, JUANY GUZMAN, taken by the
17 Defendant, pursuant to Notice, held at the
18 offices of Kaufman, Dolowich, Voluck & Gonzo
19 LLP, 100 William Street, Suite 215, New York,
20 New York 10038, on October 7, 2013, at 10:07
21 a.m., before a Notary Public of the State of
22 New York.

23
24

25

1
2 APP E A R A N C E S:
3 THE HARMAN FIRM, PC
Attorney for Plaintiffs
4 200 West 57th Street, Suite 900
New York, New York 10019
5
BY: PETER J. ANDREWS, ESQ.
6
7
8 KAUFMAN, DOLOWICH, VOLUCK & GONZO LLP
Attorneys for Defendants
9 135 Crossways Park Dr., Suite 201
Woodbury, New York 11797
10
BY: YALE POLLACK, ESQ.
11
FILE #: 055611-0002
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2 J U A N Y G U Z M A N, the witness herein,
3 having been first duly sworn by a Notary Public
4 of the State of New York, was examined and
5 testified as follows:
6 EXAMINATION BY
7 MR. POLLACK:
8 Q. State your name for the record, please.
9 A. Juany Guzman.
10 Q. State your address for the record,
11 please.
12 A. 3760 Notch Street, Macungie,
13 Pennsylvania 18062.
14 Q. Good morning, Mr. Guzman.
15 A. Good morning.
16 Q. Did I pronounce it correctly?
17 A. Yeah.
18 Q. My name is Yale Pollack. I represent
19 the defendants in this action, and today I'm
20 going to be asking you a series of questions
21 regarding your claims in this action. I have
22 just a few ground rules.
23 Please answer all questions verbally so
24 the court reporter can take down your answer.
25 Wait for me to finish my question before

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4 STIPULATION S
5
6 IT IS HEREBY STIPULATED AND AGREED by and
7 between the attorneys for the respective parties
8 herein, that filing, sealing and certification,
9 and the same are, hereby waived.
10
11 IT IS FURTHER STIPULATED AND AGREED that
12 all objections except as to the form of the
13 question, shall be reserved to the time of the
14 trial.
15
16 IT IS FURTHER STIPULATED AND AGREED that
17 the within deposition may be signed and sworn to
18 by an officer authorized to administer an oath,
19 with the same force and effect as if signed and
20 sworn to before the Court.
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25

1 J. Guzman
2 answering, and if you don't understand any
3 question that I ask, please let me know. I'll
4 rephrase it until we can come to an
5 understanding of what the question is. If you
6 need to take a break at any time, please let me
7 know. However, the only instruction I have is
8 that if I have a question pending, please
9 answer that question before asking to take a
10 break.
11 A. Okay.
12 Q. Do you understand those instructions?
13 A. Yes.
14 MR. ANDREWS: The other thing is
15 always let Yale finish the question
16 before responding to it. Don't talk at
17 the same time. Otherwise, she'll get
18 very upset with you.
19 THE WITNESS: Okay.
20 Q. Are you taking any medications today
21 that will affect your ability to truthfully
22 respond to my questions?
23 A. No.
24 Q. Are you under the influence of drugs or
25 alcohol right now?

[2] (Pages 2 to 5)

1	J. Guzman	1	J. Guzman
2	A. It ended because it was by contract,	2	Q. Do you live with your son?
3	like -- I got the job by third party, and so	3	A. Yes, currently.
4	when the time that that third party ended their	4	Q. What's that?
5	contract with Behr Paints, you know, there was	5	A. Currently, yes.
6	no more work for me, so it was like a layoff.	6	Q. Where, in Macungie?
7	Q. Do you remember when that was?	7	A. Yes.
8	A. It was -- it was the year -- it was	8	Q. Do you know your son's mother's name?
9	in -- it was right before I moved to Brooklyn.	9	A. Yes.
10	That was one of the reasons why I moved back to	10	MR. ANDREWS: Objection.
11	Brooklyn. That's all I can recall for now.	11	Don't answer that question.
12	Q. Did you have a job waiting for you when	12	MR. POLLACK: What's the basis?
13	you moved to Brooklyn in November 2011?	13	MR. ANDREWS: Again, if you want
14	A. No.	14	to call the court and ask Mr. Guzman to
15	Q. Is it a residence in Macungie?	15	start identifying the names of relatives
16	A. Yes, a residence.	16	or people he's been in personal
17	Q. Do you own that residence?	17	relationships with, that's your call.
18	A. No, my stepfather does.	18	I'm advising him not to answer that
19	Q. Are you married?	19	question.
20	A. No.	20	MR. POLLACK: On what basis?
21	Q. Have you ever been married?	21	MR. ANDREWS: The court has the
22	A. No.	22	discretion to --
23	Q. Do you have any children?	23	MR. POLLACK: I understand that.
24	A. Yes.	24	I'm asking what the basis for the
25	Q. How many children?	25	objection is.

1	J. Guzman	1	J. Guzman
2	A. I have one son.	2	MR. ANDREWS: No possible
3	Q. What's his name?	3	relevance to any issue in this case as
4	MR. ANDREWS: I'm going to	4	to what the name of the mother of
5	direct the witness not to answer. This	5	Mr. Guzman's four-year-old son is. I
6	witness has a minor son. We are not	6	cannot imagine how such a question could
7	going to disclose the name of a three-	7	possibly be relevant to anything.
8	or four-year-old child in this	8	MR. POLLACK: If we wanted to
9	deposition. If you want to call the	9	nonparty her to verify Mr. Guzman's
10	court and ask the court to order this	10	testimony, you don't see how that could
11	witness to give us the name of his	11	be relevant information?
12	four-year-old son, that's up to you, but	12	MR. ANDREWS: Put your request
13	he's not going to answer that question.	13	in writing, and we'll consider it. He's
14	MR. POLLACK: The objection's	14	not going to provide the name of his
15	noted. I'll leave it open for now. I'm	15	minor child's mother.
16	not going to call the court.	16	MR. POLLACK: Or the minor
17	Q. How old is your son?	17	child's name?
18	A. Four.	18	MR. ANDREWS: Certainly not the
19	Q. What's his birthday?	19	minor child's name. If you want to go
20	A. It's June 12th.	20	to Judge Carter and ask Judge Carter to
21	MR. ANDREWS: Objection.	21	order the disclosure of a four-year-old
22	Q. What year?	22	boy's name, that's your decision. I
23	A. It's June 12, I believe, '09.	23	think it would be an interesting
24	Q. Do you have any other children?	24	conversation between you and the judge.
25	A. No.	25	MR. POLLACK: You would be in

1	J. Guzman	1	J. Guzman
2	part of it, so yes, it would be.	2	admitted that she knows the hours that
3	Q. You were never married to --	3	he claimed he was working.
4	A. No, I wasn't.	4	MR. ANDREWS: Do you intend to
5	Q. -- the undisclosed individual?	5	subpoena --
6	A. Uh-huh.	6	MR. POLLACK: I don't know.
7	MR. ANDREWS: Make sure you wait	7	MR. ANDREWS: Let me finish the
8	for him, and answer verbally so she	8	question.
9	takes down your answers.	9	Do you intend to subpoena the
10	THE WITNESS: Okay.	10	wives, the spouses, the girlfriends, the
11	Q. Do you know where the mother lives?	11	brothers and sisters of the plaintiffs
12	A. Yes.	12	in this case?
13	Q. Where is that?	13	MR. POLLACK: I reserve the
14	A. We live together.	14	right to.
15	Q. How long have you lived together?	15	MR. ANDREWS: Okay. Put that in
16	A. Now, for two years.	16	writing and --
17	Q. Did you live with her during the time	17	MR. POLLACK: We're dealing with
18	that you were working for The Fresh Diet?	18	a Friday deadline. I don't know what
19	A. Yes. We got together around that time.	19	this issue is for providing the name of
20	Yes.	20	someone similar to every name that other
21	Q. Would she have information concerning	21	plaintiffs have disclosed concerning
22	the hours you claim you were working for	22	their significant others, their spouses,
23	The Fresh Diet?	23	their children.
24	MR. ANDREWS: Objection.	24	MR. ANDREWS: During a break in
25	Answer. Answer the question, if	25	the deposition, we will make a decision

1	J. Guzman	1	J. Guzman
2	you can.	2	as to whether to give you that
3	A. Yeah. I would say she would for the	3	information. At this time, we're not
4	simple fact that she knew when I would leave	4	providing the names of spouses,
5	the house and when I would come back to the	5	girlfriends, brothers, sisters, mothers,
6	house. Other than that, you know, there's no	6	fathers, daughters, and sons to you.
7	other information she could provide.	7	MR. POLLACK: They have been
8	Q. She would have that information though?	8	provided in other depositions, so I'm
9	A. Yeah. She would say, you know --	9	unsure what the basis for the objection
10	because the time that I would leave the house	10	is all of a sudden today.
11	to go to work and the time that I would return	11	MR. ANDREWS: The fact that
12	to the house. I don't know if it's relevant	12	you're seeking the name of a
13	to --	13	four-year-old child --
14	MR. ANDREWS: That's okay.	14	MR. POLLACK: That's not the
15	That's not your job.	15	issue right now.
16	Q. What's her name?	16	MR. ANDREWS: -- is remarkable.
17	MR. ANDREWS: Objection.	17	MR. POLLACK: That's not the
18	If the defendants wish to	18	issue right now.
19	subpoena this person, please put that in	19	MR. ANDREWS: You asked the
20	writing, and we will provide the	20	question.
21	information. The discovery's closing	21	MR. POLLACK: Okay, Mr. Andrews.
22	soon.	22	I'm asking for the name of the mother
23	MR. POLLACK: Right. That's why	23	who has knowledge of the hours.
24	I'm not looking to go back. This is a	24	MR. ANDREWS: We will consider
25	pretty ridiculous objection. He just	25	providing that information.

1 J. Guzman
2 Q. Is that a copy of the Social Security
3 card you were referring to earlier that you
4 later submitted to Syed?
5 A. Yes, the same Social Security card.
6 Q. Now I'm going to show you a document
7 that's been previously marked for
8 identification as Defendant's Exhibit 4 on
9 September 17, 2013, and I'm going to ask
10 you've ever seen that document before today.
11 (handing).
12 A. No.
13 Q. I'm now showing you another document
14 that has been previously marked for
15 identification as Defendant's Exhibit 5 on
16 September 17, 2013, and I'm going to ask
17 you've ever seen that document before today.
18 (handing).
19 A. No.
20 Q. Do you recall ever entering into any
21 type of an agreement with Late Night or
22 The Fresh Diet?
23 A. No, I never did any agreement with
24 either party.
25 Q. I'm now showing you a document that

1 J. Guzman
2 A. Yes. I was still living in Pennsylvania
3 at that time.
4 Q. You were working for Behr?
5 A. Yes.
6 Q. During your initial meeting, had
7 anything come up in your discussion with
8 Mr. Hernandez about obtaining employment in
9 Brooklyn?
10 A. No.
11 Q. Do you recall when Mr. Hernandez told
12 you about the driver position in New York?
13 MR. ANDREWS: Objection.
14 A. I don't recall the exact date of that.
15 Q. Do you recall a month and year?
16 A. It was in January.
17 Q. Of 2012?
18 A. Yes.
19 Q. Where did you go to meet Syed for the
20 first time?
21 A. At the warehouse, at the kitchen. I
22 believe it's -- I don't know the address.
23 Baltic, I believe it was.
24 Q. Baltic?
25 A. Yeah, the one where -- the one where I

1 J. Guzman
2 was working at.
3 Q. Did you only work out of one facility?
4 A. Uh-huh.
5 MR. ANDREWS: Say yes. Don't
6 say uh-huh.
7 A. Oh, sorry. Yes.
8 Q. That's the one on Baltic in Brooklyn?
9 A. Yes.
10 Q. How long after your meeting with Syed
11 did you first perform any duties for The Fresh
12 Diet?
13 A. It was a week later.
14 Q. How did you learn to perform duties that
15 week later?
16 A. Well, Syed would tell you there was --
17 he -- he just told me like what I had to do
18 when I come in and the rules to follow.
19 Q. What did he tell you that you had to do
20 when you came in?
21 A. He told me when you come in, you first
22 come to me, and you pick up the manifest
23 because they had like mailboxes, which had
24 like -- instead of having names, it had like
25 the routes, and so the manifests would be

1	J. Guzman
2	you?
3	A. No.
4	Q. Were you compensated for the work you
5	performed?
6	A. Yes.
7	Q. How were you compensated?
8	A. It was, I believe, \$3 per -- per
9	delivery. Or actually -- let me just -- per
10	stop, not per delivery. Per stop, because
11	sometimes you would do three or four deliveries
12	to the same apartment. You don't get paid for
13	the different clients. It was just for going
14	there for the stop.
15	Q. If there were multiple clients in one
16	building, is it your testimony that you would
17	only get paid for the stop at that building?
18	A. No. If there was multiple families in
19	that building, you would get paid for the
20	multiple families, but let's say, for example,
21	you and your wife would order as two different
22	clients, you know, it would be paid by that
23	stop to that one --
24	Q. Residence?
25	A. -- place.
1	J. Guzman
2	A. Yes.
3	Q. If you didn't receive a call that food
4	was completed earlier, you would show up at
5	5:00 p.m.?
6	A. Yes, if we had --
7	MR. ANDREWS: Objection.
8	Q. Yes?
9	A. Yes, I had to show up at 5:00.
10	Q. Was it your testimony that it usually
11	was not finished earlier?
12	A. Yeah, it was usually not finished on
13	time.
14	Q. When you say "on time," what does that
15	mean?
16	A. Like, you know, the food to be there
17	early during the day. It was usually -- you
18	know, you get there -- I would get there at
19	5:00 and won't leave the warehouse until like
20	7:00 at night.
21	Q. If you arrived at 5:00 but you weren't
22	going to leave until 7:00, what would you do
23	between 5:00 and 7:00?
24	A. Well, we prepare -- I would prepare for
25	the route the way that Syed told me in the

1	J. Guzman
2	Yeah. It's not by clients, and it's not
3	by bags. It was by stops.
4	Q. If there were multiple apartments within
5	one building --
6	A. Yes.
7	Q. -- you would get paid for a stop at each
8	of those apartments in the building?
9	A. Yes, correct.
10	Q. What time would you show up to perform
11	your deliveries?
12	A. The time varied. It's anywhere between
13	3:00 and 5:00. No later than 5:00. 5:00,
14	5:30.
15	Q. 3:00 p.m. to 5:00 p.m.?
16	A. Yeah, but it varied because if the food
17	was done earlier or -- I would rather, you
18	know, start as soon as possible. So once I was
19	noticed that the food was, you know, there
20	earlier, I would try to start earlier.
21	But if I did not get a call that the
22	food was done earlier, which was most of the
23	case, I would -- I had to make sure that I was
24	there at 5:00.
25	Q. 5:00 p.m.?
1	J. Guzman
2	beginning and would help pack -- pack the food,
3	would help -- or order the food by numbers and
4	stuff, like by routes. So we'll help with
5	that.
6	Q. Were there other people who were
7	assigned to packing the food in the bags?
8	A. I don't -- there was -- I believe there
9	was -- I don't know exactly. I can only say
10	what I saw. I know there were employees
11	that -- that worked at the facility. They
12	don't do deliveries, and they were the ones
13	that packed the food, but when they were
14	running late on the -- you know, on the stuff,
15	then I had to help pack the food.
16	Q. When you say you had to help pack the
17	food, what do you mean?
18	A. Syed would ask -- would ask us to help
19	pack the food and to sort it.
20	Q. When you say "us," who are you referring
21	to?
22	A. The entire drivers that were there.
23	Q. Typically, what time would you leave the
24	warehouse to start the deliveries?
25	A. Around 7:00 p.m. typically.

1 J. Guzman
 2 Saturday morning, and that was for about three
 3 months of the time that I was there, the first
 4 three months. And then after, about those
 5 three months, I -- I had a conversation with
 6 Syed, and based on that conversation, I was
 7 only doing Sunday to Thursday, you know, going
 8 into Friday morning, but I did not have to come
 9 in on Friday evening to Saturday.

10 Q. Is it your testimony that it went from
 11 six nights a week to five nights a week?

12 MR. ANDREWS: Objection.

13 A. It went -- it went -- no. It went from
 14 Sunday, you know, afternoon/evening, to
 15 Saturday in the morning, and after I had the
 16 conversation with Syed, it went from Sunday
 17 afternoon/evening to Friday morning. You know,
 18 I would come in Thursday in the evening, finish
 19 Friday morning. I did not have to come in
 20 Friday afternoon to do into Saturday.

21 Q. I just want to get this clear.

22 From January 2012 until three months
 23 later, it would be April 2012?

24 A. More or less, yeah.

25 Q. How many nights a week were you working?

1 J. Guzman
 2 Q. We have six nights, right?
 3 Is it fair to say --
 4 A. I believe it's -- yeah, it's six nights
 5 that I would come in.

6 Q. And perform deliveries?

7 A. Yes.

8 When I had the conversation with Syed,
 9 we agreed to -- well, he agreed to -- for me to
 10 come in five nights then.

11 Q. It went from six to five nights?

12 A. Yes. I did not come in on Friday,
 13 Friday evening.

14 Q. That would last from about April 2013
 15 until about June 2012?

16 A. Yeah, until I was there.

17 Q. This reduction in a night, is this about
 18 the same time you're claiming that your route
 19 changed?

20 A. No. No.

21 Q. Did this happen before Syed learned of
 22 the lawsuit?

23 A. Yes.

24 Q. How did that happen?

25 A. How did that night got taken down to --

1 J. Guzman
 2 A night being starting your route on, I
 3 understand, the one day and finishing the next
 4 day of the week.

5 A. That's what I'm saying. I'm saying --

6 Q. You're saying Sunday night, right?

7 A. Uh-huh, Sunday night.

8 Q. Monday night?

9 A. Monday night.

10 Q. Tuesday night?

11 A. Tuesday night.

12 Q. Thursday night?

13 A. Thursday night.

14 Q. Friday night?

15 A. Friday night.

16 MR. ANDREWS: Did we miss
 17 Wednesday?

18 THE WITNESS: Yeah. Yeah, we
 19 did.

20 A. Sunday night, Monday night, Wednesday
 21 night, Thursday night, Friday night.

22 Q. And Tuesday night?

23 A. I missed Tuesday?

24 MR. ANDREWS: You missed
 25 Tuesday.

1 J. Guzman
 2 Q. Yes.

3 A. I came -- I had a good relationship with
 4 Syed, so I came in one day, and I asked Syed if
 5 I could speak with him because I had a personal
 6 situation with my son, and I asked Syed -- I
 7 told Syed my son's babysitter, which was his
 8 grandmother at that time, she's a little bit
 9 older, was not able to take care of my son on
 10 Fridays.

11 And so I asked Syed if it was possible
 12 -- I asked if it was not going to put a burden
 13 on the route, on, you know, getting the work
 14 covered, if it was possible for I to have that
 15 one day off until I can resolve the issue with
 16 the babysitter since I didn't have anybody else
 17 in New York that could have, you know, helped
 18 with me that situation at that time, and he
 19 told me the next day that it was okay.

20 MR. ANDREWS: I don't want to
 21 break up your questioning. We should
 22 take a break in a few minutes, but
 23 please, ask your questions.

24 Q. It was your request to work one less
 25 night per week?

1 because now I don't want to do that drive and
2 then show up and the same thing happen because
3 I didn't have money for -- to keep fueling the
4 car just to do a trip, you know, for nothing.
5 So I would call and no, we don't have nothing,
6 nothing, nothing. And in good sense, if you're
7 smart and somebody's telling you that for
8 two weeks, two weeks and a half, you know that,
9 basically, they're just saying, you know,
10 you're fired, but they don't want to say it
11 because you can't just call somebody all the
12 time and they just neglect you, neglect you.

14 Q. Did you receive any routes after Syed
15 was served?
16 A. Yes.
17 MR. ANDREWS: Objection.
18 A. Yes, I received routes after Syed was
19 served, but the routes were two stops, four
20 stops, eleven stops where -- where the amount
21 of pay for the day was more than the expense
22 of gas.
23 Q. Do you know what day they were served?
24 A. I don't recall at this time. I don't
25 recall the exact date.

1 J. Guzman
2 know, make sure that the manifests are printed,
3 that the -- that the food was, you know,
4 getting prepared and everything. And he
5 offered me -- to pay me \$10 an hour for that
6 part of the duty, and on top of that, I would
7 have my regular route, which, at the time, I
8 did not take for the reason that it was too
9 much work, you know.

10 I always like to do the work the right
11 way. I don't want to take things that I cannot
12 do because I like to like make a commitment.
13 You know, if I do something, I want to do it
14 the right way. I don't like to slip up, and I
15 felt, at that time, doing such a long route and
16 then coming in in the morning to do that, that
17 would be like a -- very hard to do. So I did
18 not take the position at that time.

19 And where I was trying to go with that
20 is, you know, why were you offering me that
21 position that day and then once you find out
22 that there's something, now, you know -- now
23 you giving me three stops, four stops, five
24 stops. It never made sense to me.

25 Q. Now I'm going to show you a document --

J. Guzman

Q. Do you recall the month?

A. No, I don't recall the month right now.

We can look, but I don't recall the month.

(Whereupon, Injunctive affidavit was marked as Defendant's Exhibit 64, for identification, as of this date.)

A. The question that you asked before, just something else I could add on that I actually missed.

Q. What question is that?

A. Why did I feel that I was retaliated against.

Q. Go ahead.

A. Another big thing was before he found out, about a month before he found out that there was something, you know, boiling up as a claim, I was -- one day, I came in, Syed called me into the office, and he asked me that -- he was looking for someone to be his assistant, and he offered me the position, which at that time, I did not take the position. And he was offering me a position as an assistant, which from what I recall, what he offered was for me to come in early, set up everything, like, you

1 J. Guzman

2 A. Sure.

3 Q. -- that's been marked for identification

4 as Defendant's Exhibit 64 (handing).

5 I'm going to ask you to take a look at

6 that document, and then let me know if you've

7 ever seen that document before today.

8 A. Yes, I've seen this document.

9 Q. Is that your signature on the fifth page

10 of the document?

11 A. Yes, on the right-hand side. Yes.

12 Q. Did you sign this document on

13 July 9, 2012?

14 A. I believe so, yes.

15 Q. What do you understand this document to

16 be?

17 A. It was my affidavit.

18 Q. Did you sign multiple affidavits in this

19 case?

20 A. I don't recall. I believe -- I believe

21 I did two, but I don't recall the exact amount.

22 Q. Do you remember what you were signing

23 this affidavit for?

24 MR. ANDREWS: Objection.

25 A. Right now, I don't recall. I would have

1	J. Guzman	1	J. Guzman
2	to, you know, go over it with you. I do not	2	the beginning, there's a mailbox, right. So in
3	recall.	3	the mailbox, it has like the letters. So you
4	MR. ANDREWS: I just want to	4	would pick up the manifests from where that
5	emphasize, do not disclose conversations	5	mailbox is at. So when I started there, I was
6	that you've had with your attorneys.	6	handed Route P. So I would go straight in,
7	Q. Did you prepare this document?	7	just grab the keys and whatever was on that
8	MR. ANDREWS: Objection.	8	mailbox.
9	A. I did not prepare the document. Like I	9	So even though Syed would change the
10	did not write it down. I sat down with my	10	stops to other places, whatever he wants to do,
11	attorney.	11	I would always pick up the route, the paper on
12	Q. Were you with Mr. Hernandez when you sat	12	Route P. So that's why I state here that I had
13	down with your attorney?	13	Route P because I would always go and pick it
14	A. No.	14	up from that mailbox. There was nothing that
15	Q. Looking at paragraph 9 --	15	would say the name of the route. It was just
16	A. Okay.	16	the mailbox.
17	Q. -- do you see in that paragraph it	17	Q. Understood.
18	refers to a Route P?	18	Do you see paragraph 11? It says,
19	A. Yes.	19	"During this time, I typically worked six days
20	Q. Is that the route that you were assigned	20	a week".
21	to from January 2012 until about June 2012?	21	Do you see that sentence?
22	A. I believe so, yes. I believe that was	22	A. Yes.
23	the name.	23	Q. What do you mean by that?
24	Q. Is this the route that you testified can	24	A. I was explaining to you before. You
25	vary between forty and eighty stops --	25	know, I was going in in the afternoon and come

1	J. Guzman	1	J. Guzman
2	A. Yeah.	2	back -- come out in the morning. So, you know,
3	Q. -- on a night?	3	I would not finish my work until the morning,
4	A. Yes.	4	so it's like six days.
5	Q. Is there a particular night during the	5	Q. You did testify earlier that it was
6	week that it would have forty stops as opposed	6	reduced to five days at some point, correct?
7	to eighty stops?	7	A. Yes. Yes.
8	A. Yes.	8	Q. You didn't work six days a week for the
9	Actually, I'll let you know how the week	9	entirety of January to early June?
10	works. Sunday through Wednesday was like super	10	MR. ANDREWS: Objection.
11	busy. That was when there was the most stops.	11	Q. Is that a fair statement?
12	And then like Thursday and Friday it was a bit	12	MR. ANDREWS: Objection.
13	less.	13	A. It -- it depends the way you look at it.
14	Q. Looking at paragraph 10, it says,	14	Q. You testified earlier, at some point, it
15	"Throughout the first half of 2012, from	15	was reduced from six nights to five nights,
16	January to approximately early June, I handled	16	correct?
17	Route P on a full-time basis and delivered	17	A. Uh-huh.
18	meals to The Fresh Diet Inc.'s customers in	18	MR. ANDREWS: Objection.
19	Lower Manhattan".	19	Q. You said that that was approximately
20	Do you see that?	20	three months after you began.
21	A. Yes.	21	A. More or less, yes.
22	Q. Is that the time that you had only	22	Q. Was the five nights the amount of nights
23	worked the Route P route?	23	you typically worked until the end of the time
24	A. The P -- the thing with the P route is	24	you worked for The Fresh Diet?
25	that it would be in a mail -- like I said in	25	A. Yeah, until the situation, which it

1 J. Guzman
 2 wasn't like the whole three months because, you
 3 know, after that situation, which started a
 4 month prior to -- like almost a month -- a
 5 couple weeks prior to the time that they were
 6 served --
 7 Q. Looking at paragraph 12, it says,
 8 "During this time, I typically worked eight to
 9 ten hours a day, and sometimes up to
 10 twelve hours a day".
 11 Do you see that?
 12 A. Yes.
 13 Q. What are those hours based on?
 14 A. Those hours -- I based those hours on
 15 the time that I came in to the time that I
 16 returned to the facility. And the reason why I
 17 put here eight, ten, twelve because I wanted to
 18 be the most accurate as possible. You know, I
 19 did not want to say -- I did not want to
 20 exaggerate, just be as accurate as possible
 21 because it varied depending on the route.
 22 Q. When would it be up to twelve hours a
 23 day?
 24 A. That's when I had like a lot of stops,
 25 when I had the seventy stops, because it would

1 J. Guzman
 2 on the Belt Parkway.
 3 Q. Then about fifteen to twenty minutes to
 4 get from the facility --
 5 A. In the evening.
 6 Q. -- back to your home --
 7 A. Yeah, in the morning.
 8 Q. -- after you were done?
 9 A. Uh-huh.
 10 Q. The next paragraph, paragraph 13 --
 11 A. 13, yes.
 12 Q. -- says that you, typically, made about
 13 800 per week.
 14 Do you see that?
 15 A. Yes.
 16 Q. What was that based on?
 17 A. The amount of stops.
 18 Q. Did your pay vary from week to week?
 19 A. Yes.
 20 Q. Looking down at paragraph 20, it says,
 21 "I would not have been able to support myself
 22 and my family by working a part-time schedule".
 23 Do you see that?
 24 A. Yes.
 25 Q. What do you mean by a "part-time

1 J. Guzman
 2 take me about ten hours on the route, and then
 3 like two hours, give or take two hours, you
 4 know, between the packing and the coming back
 5 and everything, you know, the entire operation
 6 from the time that I came in to work until the
 7 time that I would leave the facility.
 8 Q. Did you always pack meals?
 9 A. Not all the time. Not every single
 10 time.
 11 Q. Did you always return to the facility
 12 when you were done?
 13 A. Yes. That's mandatory for me.
 14 Q. How far was your residence from the
 15 facility, driving time?
 16 A. I would say two times because I would
 17 say in the -- you know, the afternoon, it's
 18 rush hour. In the afternoon, anywhere between
 19 thirty minutes to an hour. In the evening, it
 20 was quick, about, I would say, fifteen to
 21 twenty minutes. It was no -- no -- like not so
 22 much traffic unless I finished real late.
 23 Q. It would take you about thirty to
 24 sixty minutes to get to the facility?
 25 A. In the afternoon because of the traffic

1 J. Guzman
 2 schedule"?
 3 A. What I mean there, based on, you know,
 4 the bills and stuff that we had, like if I was
 5 working part-time -- what a part-time job pay
 6 you, around \$200, \$180, more or less? I
 7 wouldn't be able to cover our bills if I was
 8 making around \$180 at that time.
 9 Q. Had you looked for any part-time
 10 positions in January 2012?
 11 A. No. After -- after I started working
 12 with Fresh Diet, I considered myself a
 13 full-time employee. I did not have any
 14 intentions of working anywhere else at that
 15 time.
 16 Q. Did you look for any other positions
 17 between November 2011 and January 2012?
 18 A. Yes.
 19 Q. Did you apply for any other positions
 20 during that time?
 21 A. Yes. I applied for different positions
 22 in New York. I even tried doing real estate.
 23 I was taking the course for real estate at that
 24 time, tried for that.
 25 Q. What positions did you apply for?

1	J. Guzman	1	J. Guzman
2	A. I applied for like supermarkets or	2	not know anything about any potential lawsuit".
3	retail stores at the time and also at recording	3	Do you see that?
4	studios since I have an audio engineering	4	A. Yes.
5	degree at that time.	5	Q. Is that a true statement?
6	Q. Were you offered any of those positions?	6	MR. ANDREWS: Objection.
7	A. Yes, I was.	7	THE WITNESS: Can I answer or
8	Q. Was there a reason that you didn't take	8	no?
9	the positions?	9	MR. ANDREWS: If you can
10	A. Yes. It was -- the pay was too low, I	10	explain, you can answer.
11	believe, for what I -- you know, what I need,	11	THE WITNESS: Yeah, I'll
12	more or less, for my family.	12	explain. I remember the conversation.
13	Q. Do you remember what pay was offered for	13	A. I came in to return the bags like normal
14	any of those positions?	14	every day, and when I come in, I do everything,
15	A. It was \$8 an hour.	15	and I usually, you know -- I'm very polite, so
16	Q. Do you remember which one was offering	16	I usually would tell everyone that was there
17	\$8 an hour?	17	have a good day or whatever and go home.
18	A. It was Pathmark supermarkets.	18	But that day, Syed asked me that he
19	Q. Looking at paragraph 2 --	19	wanted to talk to me, and we were in his
20	A. 2?	20	office, and he asked me do you know anything
21	Q. 22. I apologize.	21	about Fernando talking to drivers about a
22	In that paragraph, you describe a	22	potential lawsuit or anything like that, and at
23	conversation you had with Syed, correct?	23	that time, I told him no, I don't know
24	A. Yes.	24	anything, and I went home. And the reason
25	Q. Do you remember when that conversation	25	being is I knew that if Syed finds out, given

1	J. Guzman	1	J. Guzman
2	occurred?	2	his personality, he would start, you know,
3	A. Right now, I don't recall the exact	3	talking bad because that was like the way he
4	date.	4	talked, you know, using curse words and stuff
5	Q. Looking back at paragraph 21, there's a	5	like that. So I just didn't want to get into
6	reference to this conversation happening in or	6	the conversation, so I said no, I don't know
7	about late May 2012.	7	anything and just went home.
8	Do you see that?	8	Q. Did you know about a potential claim at
9	A. Yes, I see it.	9	that time?
10	Q. Is this when the conversation that you	10	A. Yes.
11	were referring to earlier occurred with Syed?	11	Q. How did you know about a potential claim
12	A. I don't recall right now. I can't give	12	at that time?
13	you an answer of something I can't remember	13	A. I'm part of that claim.
14	right now, you know, the date. I can't	14	Q. Who had mentioned the claim to you
15	remember the date, the exact date. If it says	15	before you sat down with Syed that day?
16	it here, it must have been around that time,	16	A. Who -- say that question again.
17	but I don't have the exact date with me right	17	Q. Was there any particular person who had
18	now in my mind.	18	mentioned this particular lawsuit to you before
19	Q. Sometime in late --	19	you sat down with Syed that day?
20	A. Yeah.	20	A. (No verbal response.)
21	Q. -- May 2012?	21	Q. How did you learn of the potential
22	MR. ANDREWS: Objection.	22	lawsuit?
23	A. I would say that.	23	A. I was the one that -- that went to do
24	Q. During this conversation in paragraph	24	the lawsuit, the complaint. I was complaining.
25	22, you said, "I told Mr. Hussain that I did	25	Q. It was you, individually?

1 J. Guzman
2 for identification, as of this date.)
3 Q. Now I'm going to show you a document
4 that's been marked for identification --
5 A. Should I close this up?
6 Q. You could just close it, yes, and just
7 hold it there. We may go back to it.
8 A. Okay.
9 Q. -- as Defendant's Exhibit 65, titled
10 "Affidavit of Plaintiff Juany Guzman in Support
11 of Preliminary or Conditional Collective Action
12 Certification (Notice)".
13 I'm going to ask you, before today, if
14 you've seen this document (handing).
15 A. Yes.
16 Q. Is that your signature on the third page
17 of the document?
18 A. Yes.
19 Q. Did you sign the document on
20 September 24, 2012?
21 A. Yes.
22 Q. What is your understanding of this
23 document?
24 MR. ANDREWS: Objection.
25 A. It's another affidavit.

1 J. Guzman
2 A. No, no mileage. I never received
3 anything for mileage.
4 Q. Paragraph 32 says, "The Fresh Diet Inc.
5 has not given me any work at all since
6 June 26, 2012".
7 Do you see that?
8 A. Yes.
9 Q. What work did you perform on
10 June 26, 2012?
11 A. I don't recall. That was a long time
12 ago.
13 Q. This reduction in stops, this was only
14 for the period of June 2012?
15 MR. ANDREWS: Objection.
16 A. Yeah. It was -- it was -- it was right
17 after -- it was like a week -- right after they
18 got the -- they got served. I remember -- I
19 don't know the exact date, but I remember that
20 because I was in the office when that happened,
21 so I remember that it was like two weeks -- a
22 couple of weeks after they received that letter
23 that they were served.
24 (Whereupon, Collective affidavit
25 was marked as Defendant's Exhibit 65,

1 J. Guzman

2 Q. Looking at paragraph 2, it says, "My job

3 responsibilities as a driver/food delivery

4 employee consisted exclusively of showing up to

5 The Fresh Diet Inc.'s Brooklyn facilities,

6 receiving instructions as to my delivery

7 routes, obtaining prepared meals, and

8 personally delivering them to The Fresh Diet's

9 customers throughout the New York City tristate

10 region, including locations in New York,

11 New Jersey, and Connecticut".

12 Do you see that?

13 A. Yes.

14 Q. Did you ever perform deliveries in

15 New Jersey?

16 A. No.

17 Q. Did you ever perform deliveries in

18 Connecticut?

19 A. No.

20 Q. The following sentence says, "After

21 completing my meal deliveries, I would have to

22 return to The Fresh Diet's Brooklyn facilities

23 to report back, complete required paperwork,

24 and return empty bags".

25 Do you see that?

1	J. Guzman	1	J. Guzman
2	A. Yes.	2	just got this phone now.
3	Q. When you say "report back," what do you	3	What did you do with the phone that you
4	mean by that?	4	had?
5	A. We -- when I get back -- I'm going to	5	A. I lost it. I lost that phone.
6	walk you actually through it. When I get back,	6	Q. Where did you lose it?
7	all the empty bags that are in the vehicle, I	7	A. I don't recall.
8	would have to take them out, and then there	8	Q. Did you have the same phone from January
9	would be like ice packs inside, and I would	9	2012 to June 2012?
10	have to put them in the fridge, take the ice	10	A. January to June? No. I had a -- I had
11	pack and put them there, and then take the bag	11	a -- what was it? I believe I had an iPhone,
12	and any garbage or anything that's in there,	12	and then while I was working at Fresh Diet, I
13	throw it in the garbage, and then put the bags	13	replaced it with a Blackberry, and then the
14	in the bin for the bags to get clean.	14	Blackberry was the one that I misplaced.
15	After I would do that, I take my	15	Q. When did you have the Blackberry from?
16	manifest, I looked over it, make sure that	16	A. I don't recall right now. It was during
17	everything was, you know, written down	17	the time I was working there at Fresh Diet.
18	correctly, the time and everything, and I would	18	Q. Would that Blackberry have the texts
19	count how many bags I returned, and I had to	19	that you're referring to?
20	count how many deliveries that I did to make	20	MR. ANDREWS: Objection.
21	sure that everything was done correctly.	21	A. I don't remember. It -- I don't know if
22	Then I would place the manifest on the	22	it would have it still stored in the phone. I
23	bin that Syed had, and under that, there was	23	don't remember, but I don't have either phone.
24	like a sign-in sheet, so you would sign -- you	24	Q. Going back to the affidavit, did you
25	would put like the time you got to the	25	read it before you signed it?

1	J. Guzman	1	J. Guzman
2	facility, put it there. And then after that,	2	A. Yeah, I read over it but, you know, very
3	that was it. Then you can go home.	3	briefly, just go over it after I went over it
4	Q. Before returning to the facility, did	4	with my attorney.
5	you report how many bags you had dropped off	5	Q. Do you know if anyone else signed a
6	for the night?	6	similar document to this one?
7	A. Yes. We would send a text reporting how	7	A. No, I don't.
8	many bags were picked up.	8	MR. ANDREWS: Objection.
9	Q. When would you send that text?	9	A. I don't know that.
10	A. At the time that we were done with the	10	Q. Did you make sure that all the
11	last delivery before -- Syed specifically	11	statements were accurate before you signed it?
12	wanted -- wanted it at that time that we	12	MR. ANDREWS: Objection.
13	performed the last delivery before we even got	13	A. I -- I -- more or less, yes.
14	to the warehouse.	14	Q. Are there any inaccuracies that you now
15	Q. Do you still have those texts?	15	see in this document?
16	A. No. I -- I don't have that phone.	16	MR. ANDREWS: Objection.
17	Q. Did you give those texts to your	17	A. I see one.
18	attorney before you switched phones?	18	Q. Being?
19	A. I don't recall. I don't believe so, but	19	A. The Jersey and Connecticut.
20	I don't recall right now if I did.	20	Q. What's inaccurate about that?
21	Q. When did you get a new phone?	21	A. Jersey and Connecticut. I never --
22	A. Well, this is my second phone. I got a	22	Q. That you never performed deliveries
23	different phone like after that, like a couple	23	there?
24	of months after all of this stuff, like	24	A. No.
25	probably September of that year, and then I	25	Q. Looking at paragraph 4, do you see where

1 J. Guzman
2 that for everyone.
3 Q. Who was it not like that for?
4 A. A lot of people. A lot of people.
5 Q. Like who?
6 A. A lot. Some of them, I don't even know
7 their names because I did not mingle with them,
8 but when we had meetings, you know, there was
9 like -- which we had meetings like every couple
10 weeks with Syed that he was -- mandatory for us
11 to come into that meeting before we go to do a
12 route. There was argument. I would just stay
13 quiet in that entire time and not even comment
14 on anything.
15 Q. Do you know anyone whose pay was docked
16 for not following instructions?
17 A. I heard -- because I like to give the
18 facts. I did not see it with my eyes. Like I
19 did not see the paycheck where somebody got
20 docked. I would hear them argue with Syed for
21 like hey, Syed, why did you dock me this. Oh,
22 remember you this and you BS and, you know,
23 stuff like that. So by the time I was in the
24 office, I would hear those conversations
25 between him and other drivers, but I did not

1 J. Guzman
2 personally, with my eyes, see a document
3 showing that someone got docked.
4 Q. Did anyone ever tell you that their pay
5 was docked?
6 A. Fernando did because he was one of the
7 people that I spoke with, which probably the
8 only one that I really had a conversation with
9 there.
10 MR. ANDREWS: Could we take a
11 two-minute break just for me?
12 MR. POLLACK: That's fine.
13 (Whereupon, a recess was taken
14 at this time.)
15 (Whereupon, Class action
16 affidavit was marked as Defendant's
17 Exhibit 66, for identification, as of
18 this date.)
19 Q. I'm now going to show you a document
20 that's been marked for identification as
21 Defendant's Exhibit 66 (handing).
22 I'm going to ask you to take a look at
23 that document, and let me know if you've ever
24 seen that before today.
25 A. Yes, I've seen this document before.

1 J. Guzman
2 one sworn to on June 26, 2012?
3 A. This one right here (indicating)?
4 Q. Yes, Defendant's 64.
5 A. It's July 9th.
6 Q. Do you know what June 26, 2012 affidavit
7 you're referring to?
8 A. No.
9 Q. Do you believe that there's another
10 affidavit you signed before the three that are
11 in front of you, which are marked defendant's
12 64, 65, and 66?
13 A. No. I don't recall signing anything
14 else.
15 Q. Do you believe that the second affidavit
16 referred to in that sentence, being sworn to on
17 September 24, 2012, is the one before you as
18 Defendant's Exhibit 65?
19 A. Yes, Exhibit 65, that's correct.
20 Q. Looking at paragraph 8 --
21 A. 8, okay.
22 Q. -- it says, "Throughout my employment, I
23 often worked significantly in excess of
24 forty hours a week, yet was never paid overtime
25 compensation of one and one-half times my

1 J. Guzman
2 regular rate of pay".
3 Do you see that?
4 A. Yes.
5 Q. What do you mean by that?
6 A. I meant --
7 MR. ANDREWS: Objection.
8 A. I just meant that I worked over
9 forty hours, and I did not get compensated for
10 anything over forty hours.
11 Q. How many hours over forty did you work?
12 A. I would have to do the math. I don't
13 recall right now. I would have to sit down
14 and do the math.
15 Q. Can you do the math right now if we took
16 a minute and waited for you to do so?
17 A. Yeah, we can go over it. I'm going
18 to -- because the thing is, I'm not going to
19 have right -- you know, it's been like a long
20 time, so I'm not going to have like an exact
21 amount, but I'm going to try to be as, you
22 know, close to what it was.
23 Do you have a paper and pen to write it
24 down?
25 MR. ANDREWS: Do you need a

1 J. Guzman
2 finished the route, it would be about ten hours
3 for Sundays.
4 Q. Okay.
5 A. Because it was like the heaviest day.
6 MR. ANDREWS: Is red pen okay?
7 MR. POLLACK: It's fine.
8 MR. ANDREWS: As long as we can
9 photocopy it.
10 A. Then Monday was still a similar day. It
11 was still busy that day, so I would put the
12 same.
13 Q. Do you know what hours you're referring
14 to?
15 A. Yes. I'm going to put it here
16 (indicating).
17 Q. Okay.
18 A. What I'm trying to put here, it's the
19 hours from the time that I started the route to
20 finishing the route when I got back to the
21 facility.
22 Q. That's fine.
23 A. Yes. So I'm going to write it here
24 actually. Well, I'll write it at the end.
25 Tuesday, it was still -- it was like

1 J. Guzman
2 calculator?
3 THE WITNESS: No. It's simple
4 math.
5 Q. Is this fine (handing)?
6 A. Yes, just to do day by day.
7 Q. You testified that the hours would have
8 been similar from January 2012 to April 2012;
9 is that correct?
10 A. Yeah. That time was very -- there was
11 not changes. It was like very steady. The
12 decline in hours was after the situation we
13 discussed before.
14 MR. ANDREWS: Instead of writing
15 on a Post-it, why don't you write on an
16 eight-and-a-half-by-eleven piece of
17 paper?
18 A. Okay. I'm going to put dates, like, you
19 know, go through the dates so we can kind of
20 figure it out.
21 So it would be Sunday. Sunday,
22 generally, was one of the busiest days of the
23 week, so it's going to be on the top end. So
24 doing the route on Sundays would be -- from the
25 time I -- from the time I started the route to

1 J. Guzman
 2 of the time, it was like an hour and a half.
 3 You know, it varies. This is more something
 4 that I can actually, you know, calculate.
 5 And then Fridays -- Fridays was the same
 6 thing, around seven hours. That was for, we
 7 said, January through three months, February,
 8 March, I would say, April. So that would be
 9 through April because, remember, then after
 10 that, I had that one day, Friday, that I did
 11 not perform the duties. So after that time,
 12 after April, then we can eliminate the Friday.
 13 Q. What would the total hours be from
 14 January through April?
 15 A. So here -- but this is for the route. I
 16 haven't added the time that --
 17 Q. I only want the route right now.
 18 A. Okay. It would be ten and ten, ten is
 19 thirty. Fourteen. It would be around
 20 fifty hours, fifty-one hours, give or take.
 21 Q. How much additional time would you add
 22 on to that for predelivery?
 23 A. The predelivery for the week?
 24 Q. Yes.
 25 A. It was -- for this time, it was six

1 J. Guzman
 2 make a copy of this.
 3 MR. ANDREWS: And we'll mark it
 4 as an exhibit so we know what we're
 5 talking about.
 6 (Whereupon, Handwritten
 7 calculations by Mr. Guzman was marked as
 8 Defendant's Exhibit 67, for
 9 identification, as of this date.)
 10 Q. I'm now going to show you what's been
 11 marked for identification as Defendant's
 12 Exhibit 67, and I'm going to ask if that's the
 13 calculations that you just handwrote during
 14 today's deposition (handing).
 15 A. Yes.
 16 Q. Looking at this, we're talking about
 17 sixty hours per week from January 2012 through
 18 April 2012?
 19 A. Uh-huh.
 20 Q. Was that a yes?
 21 A. Yes.
 22 MR. ANDREWS: Don't say uh-huh.
 23 Say yes.
 24 THE WITNESS: It's nature.
 25 Q. Fifty-two hours a week from April 2012

1 J. Guzman
 2 days. I can -- I'm going to do like an hour
 3 and a half just to be in the middle of the
 4 actual time. So it would be three, six, about
 5 nine more hours. So I would say like a
 6 total -- so plus nine hours of pre -- what did
 7 you call it, pre what?
 8 Q. Predelivery.
 9 A. Predelivery. A total of about sixty
 10 hours, give or take, more or less. That was at
 11 that time.
 12 Q. From April to early June, what would it
 13 be?
 14 A. From -- so let's do here -- April to
 15 June, it would be sixty minus, I would say,
 16 like eight hours, I would say, for example.
 17 So, I would say, it's like fifty-two to
 18 fifty-one hours or fifty-two hours, for
 19 example, because we would take off the seven
 20 hours plus like an hour or hour and a half for
 21 that day. So that's more or less what I can
 22 come up with that's more accurate, not
 23 exaggerating or going, you know, low, just the
 24 ballpark.
 25 MR. POLLACK: I'm going to go

1 J. Guzman
 2 to June 2012?
 3 A. Until the situation.
 4 Q. Until early June 2012?
 5 A. Yes.
 6 Q. You did not perform meal packing every
 7 day, correct?
 8 A. No, no meal packing every day.
 9 Q. There were some days that everything was
 10 prepared for you to just put the bag in your
 11 car?
 12 MR. ANDREWS: Objection.
 13 A. Yes and no, and I will explain. It's
 14 better to explain it.
 15 Even though, let's say, the meals were
 16 packed, they were in the freezer, but it's like
 17 all the routes, everywhere. So when I would
 18 come in, even if, best case scenario -- best
 19 case scenario, all the food was prepared and it
 20 was packed and it was in the freezer, each bag
 21 has a client's name and address and the
 22 client's ID number. So when you have the
 23 manifest, you have to go and find it, and,
 24 let's say, you have fifty bags, or forty bags,
 25 you might find ten, fifteen of them on one

1 J. Guzman
2 just know that sometimes we got to get there at
3 the same time, or he was there already, or he
4 came right after I came in, but I don't -- I
5 don't know if --

6 There was a lot of times where I would
7 go, and I, you know, didn't see a lot of
8 people, you know. So I don't know if they had
9 already come, left, or -- I don't know the
10 specifics.

11 Q. Were you scheduled to arrive at a
12 certain time?

13 A. Scheduled in which way do you mean?
14 Like written on a piece of paper or by telling
15 me, someone telling me?

16 Q. Were you expected to be at the facility
17 at a certain time?

18 A. Yes. I was expected to be at the
19 facility around 5:00.

20 Q. Do you know if everyone was expected to
21 be there at 5:00 p.m.?

22 A. When -- when we had the meetings -- Syed
23 would have like meetings every couple of weeks.
24 He would conduct the meetings the day that we
25 would receive our -- our checks and then -- the

would receive our -- our checks and the -- the

1 J. Guzman
2 to do this, you know, Nafis, I need you to --
3 it would be -- he would speak in general to the
4 group. So that's why I can say that the duties
5 that I was performing was what he was assigning
6 everyone because of the meetings that we had
7 with Syed, the mandatory meetings.

8 **Q.** How do you know that your compensation
9 was typical of other drivers?

10 A. I know -- I know -- I know that I had
11 typical compensation than other drivers because
12 Syed -- Syed told me like, you know -- when I
13 was working there, I ask him, you know, because
14 I heard rumors that in the city certain people
15 were getting paid \$4. So I asked Syed, you
16 know, and he said no, we pay \$3 for New York
17 City, and if it's Brooklyn, you know, the other
18 places, it's \$4, and if it's something further
19 than that, it's the stops plus the mileage, you
20 know, but that was just a question that I had
21 for him.

22 Q. Looking at paragraph 10, subparagraph C,
23 it says, "All New York City area drivers had to
24 report to Defendant Hussain at the beginning
25 and end of each shift that they worked".

1 reason why he would conduct it the day we
2 received the checks is if the meetings were
3 mandatory and if someone did not show up to the
4 meeting, he would not hand them over the check
5 that day. He would hold it for another day
6 even though he had it in his hand. I was like
7 whatever. He -- the way that he operate -- but
8 for me, being in those meetings, like I said, I
9 only listened. I did not open my mouth. And
10 from listening to -- to -- to everything, he
11 specifically states that, you know, make sure
12 you're here by 5:00, make sure you're here by
13 5:00. So I can say that yes, you know,
14 everybody was supposed to, more or less, be
15 there at least at that time from the meetings.
16

17 Q. How do you know that your experiences
18 were typical of how drivers were supervised and
19 compensated?

20 A. Because the meetings. The reason that I
21 can say that is because at the meetings, that's
22 a time where I would listen to the rules. The
23 rules were not given -- you know, Syed would
24 not -- we would not sit in a room, and Syed
25 would talk, and he would say Juan, I need you

1 J. Guzman

2 A. Uh-huh.

3 **Q.** "At the end of their shifts, all New
4 York City area drivers had to report how many
5 meals they had delivered, how many miles they
6 had driven, and how many stops they had made.
7 They also has to return empty bags. New York
8 City area drivers who did not comply with these
9 requirements were subject to discipline, up to
10 including termination."

11 Do you see that paragraph?

12 A. Yes

13 Q. Do you know of any specific instances
14 where someone was disciplined for failing to
15 report how many meals they had delivered?

16 A. For not reporting -- I don't recall
17 right now the specifics, but I did -- I did
18 see -- I did see and hear when I was in the
19 office. I did see and hear what he would say
20 to the guys that did not send it in.

21 One of the things that he would do
22 typically -- his nature was to hold the checks.
23 You know, a lot of the guys dependent on
24 receiving the check on time so that they could
25 cover their expenses and stuff, and he would

1 typically do that. Like even though he had the
2 checks, he would hold it for one or two days,
3 and that was like a way to say hey, you have to
4 get this done right. Or he would not pay you
5 for one stop. He'll say no, I'm not paying you
6 for that one because you didn't document it on
7 the manifest. You know, little things like
8 that.

9

10 Q. Do you remember any specific examples?

11 A. Not right -- I can't -- not right now.

12 I don't have the name and the person, you know.
13 What I'm telling you is what I saw when I was
14 in the office with Syed, you know, when I was
15 getting my stuff, what he would tell people and
16 do. I don't know if another plaintiff in the
17 case has anything, any information. I don't
18 have anything.

19 Q. Do you know if anyone ever did not
20 comply with those requirements mentioned in
21 paragraph 10C?

22 A. If -- like I said, I know that there was
23 certain people that had that. I just don't
24 remember the names of them because some of them
25 are not even, you know -- not even the people

1 J. Guzman

2 A. I know Fernando was.

3 Q. How do you know that?

4 A. Because I was in the room when he docked

5 Fernando, told him I'm not paying you for that.

6 It was part of an argument they had, I'm not

7 paying you for that, I'm not paying you for

8 that delivery, you didn't put it on the right

9 door, things of that nature.

10 Q. Do you know anyone who was disciplined

11 for not reporting how many meals they had

12 delivered?

13 A. No, I don't -- I don't recall. I don't

14 recall.

15 Q. Do you know anyone who was disciplined

16 for not reporting how many miles they had

17 driven?

18 A. Yes.

19 Q. Who?

20 A. Correa, I believe, was one of them one

21 day. It was something with the mileage, you

22 know, if you didn't get the mileage accurate,

23 I'm not paying you the mileage for here to

24 here, things like that, you know.

25 What I'm trying to tell you is

1 J. Guzman
2 that -- like I know Fernando, and I know
3 Correa, but the other guys, I don't talk -- I
4 never talked to them like that, you know, so I
5 don't have the information.
6 Q. What are you referring to when you say
7 "discipline" in that paragraph?
8 A. Like docking you \$50 for a bag tie.
9 Q. You don't know of anyone that that
10 happened to?
11 A. He did that to --
12 MR. ANDREWS: Objection.
13 A. He did that to Fernando, but I don't
14 know anybody -- I don't know the -- like the
15 names that I gave you there, I don't know the
16 other -- I don't know the names of the other
17 guys, so I can't tell you the name.
18 Q. You just said that that was for not
19 putting on a bag tie, right?
20 A. That was one incident that I saw, you
21 know, not putting on a bag tie, docking you for
22 misdelivery. You know, if you had two or three
23 misdelivery, they dock you for that.
24 Q. Do you remember anyone who was
25 disciplined for a misdelivery?

1 J. Guzman
2 everything that I've given you, it's what I saw
3 and heard, but I didn't see a physical document
4 like a paper saying, you know, your pay because
5 I don't see other peoples' paychecks.
6 Q. I'm asking for your personal knowledge
7 of certain statements that you have made in
8 this after affidavit.
9 A statement that had been made was that
10 drivers who did not comply with requirements,
11 mentioned in paragraph 10C, were subject to
12 discipline up to and including termination.
13 I'm trying to understand the basis of that
14 statement.
15 A. Yeah. The basis is from the meetings.
16 Q. It says that this happened.
17 Okay?
18 A. Uh-huh.
19 Q. I'm trying to understand who was subject
20 to discipline for not reporting how many miles
21 they had driven.
22 A. Who was subject -- the person that did
23 not put the miles.
24 Q. Is there anyone in particular that you
25 remember that happened to?

1	J. Guzman	1	J. Guzman
2	A. No, I don't remember the name.	2	there, but there was New York City drivers that
3	MR. ANDREWS: Objection.	3	it didn't matter if they get there 11:00 at
4	The witness just testified and	4	night or 10:00 at night, and if they finish at
5	gave you a name.	5	7:00 in the morning, they would not get in
6	A. Yeah. I have a -- I don't know any --	6	trouble, and nothing would happen to them,
7	there was other people that I know the face,	7	anything like that, and one of them is Nafis,
8	but I don't remember the name because I haven't	8	and the other one is his uncle. They can come
9	been there in such a long time.	9	in at any time they want. And in the morning,
10	Q. Do you know anyone who was disciplined	10	if that Nafis was not able to finish on time,
11	for not reporting how many stops they had made?	11	Syed would call me and say to help him out and
12	A. Yes.	12	things like that.
13	Q. Who?	13	That's why I said this statement
14	A. Fernando. That's -- like I can give you	14	because, you know, generally, it was 5:00, but
15	Fernando because I, you know -- conversation	15	there's two or three people that they can --
16	with him. At the same time, I was in the	16	they just had like, you know, whatever you
17	office a lot of the times when Syed would say	17	wanted to do.
18	I'm not paying you for this, I'm not paying you	18	Q. Do you know if they were disciplined for
19	for that because you did this, you got to make	19	not showing up at 5:00?
20	sure and stuff like that.	20	A. No, they were not disciplined at all.
21	I never had that problem, you know, I	21	They were part of his circle.
22	was actually very happy. I never had that	22	Q. Do you know if any others besides those
23	problem. I didn't have misdeliveries and stuff	23	two showed up later than 5:00 p.m.?
24	like that often.	24	A. I -- no, I don't. That did not get
25	Q. We'll move on to the next paragraph,	25	disciplined? I don't recall.

1	J. Guzman	1	J. Guzman
2	which is 10D.	2	Q. Do you know anyone who was disciplined
3	It says, "All New York City area drivers	3	for not showing up to work at a specific time?
4	were expected to work at specific times. The	4	A. Yeah, Danny. Even Fernando one time was
5	schedules were created by Defendant Hussain.	5	disciplined for not showing up at time, and the
6	If they did not arrive to work at the assigned	6	consequences for that was, let's say, your
7	times, they were subject to discipline, such as	7	route, you have sixty stops that day. He would
8	reduction in wages often characterized as	8	just say okay, so I'm going to give ten of
9	"fines" and "penalties," up to and including	9	those stops to somebody else, so he would just
10	termination".	10	give it to somebody else.
11	Do you see that paragraph?	11	Q. That's what you're referring to as a
12	A. Yes.	12	discipline in that paragraph?
13	Q. What schedules are you referring to in	13	A. Yeah. They would take --
14	that paragraph?	14	MR. ANDREWS: Objection.
15	A. For example, this is a specific	15	A. For that specific situation, he would
16	situation that happened there, and it was -- in	16	just take your stops and distribute it to
17	the meetings, you know, he would speak	17	someone else, just, you know -- it was based on
18	generally to everyone and say, you know, you	18	emotions, attitude, you know. You know, he
19	have to be here 5:00 and this, this, and that.	19	just cut the route in half or whatever and give
20	If there was certain guys that they take food	20	it to someone else.
21	to Virginia, which is like a long trip, their	21	Q. When did that happen to Danny?
22	food was always done earlier, so they had like	22	A. I don't recall the exact date. It was
23	a different schedule.	23	during my time working there.
24	You know, the New York City area was	24	Q. How did you know that he was
25	like 5:00 was the time he wanted us to be	25	disciplined?

1 J. Guzman
 2 one back up, go back to the city and deliver --
 3 deliver the bag, and so that's one -- like
 4 that's -- that's -- that's one situation where
 5 that happened.
 6 Q. Did you ever try to change your route?
 7 A. No, I didn't. I never request
 8 anything. I just go in to work and just do the
 9 work that I was asked to perform.
 10 Q. Did you ever try to arrange with another
 11 driver to change your assignment?
 12 A. No.
 13 Q. Do you know anyone specifically that
 14 ever tried to arrange with another driver to
 15 change his or her assignment?
 16 A. No. The only instance I know was at
 17 that part when Nafis was taking, you know,
 18 whatever he was missing to get to like almost
 19 one hundred stops. I don't -- I don't know
 20 anything other than that.
 21 MR. ANDREWS: Yale, depending on
 22 how much more you have, I think we need
 23 to take a lunch break.
 24 MR. POLLACK: Yes, we will need
 25 to take a break.

1 J. Guzman
 2 A. Referring to Juan Correa, Fernando
 3 Hernandez, Nafis, Syed's Uncle. The other
 4 names -- I don't recall the names exactly, but
 5 there's a list of people.
 6 Q. Did you discuss their rates of pay with
 7 them?
 8 A. I -- I had a conversation with -- with
 9 Juan Correa that I recall. I also had a
 10 conversation with Alex. I don't know his last
 11 name.
 12 Q. What do you remember discussing with
 13 Mr. Correa?
 14 A. I -- I just asked how do you get paid
 15 basically just to figure out if I -- we had the
 16 same way of pay. And I asked Alex the same
 17 thing.
 18 Q. When did those conversations take place?
 19 A. When I was employed by --
 20 Q. Was it before May of 2012?
 21 A. I don't recall the date, but it wasn't
 22 at the end of my employment there. It was like
 23 towards the beginning of my employment there.
 24 Q. What did Mr. Correa tell you?
 25 A. No. He just said that he gets paid by

1 J. Guzman
 2 MR. ANDREWS: For about maybe
 3 forty-five minutes?
 4 MR. POLLACK: Yes, let's do that
 5 now.
 6 (Whereupon, a luncheon recess
 7 was taken from 12:45 to 1:37.)
 8 MR. POLLACK: What was last
 9 question?
 10 (Whereupon, the record was read
 11 by the reporter.)
 12 Q. Looking at, still, Defendant's 66,
 13 looking at paragraph 11, it says, "In addition
 14 to myself, I am aware and have personal
 15 knowledge that the defendants employed many
 16 other similarly situated drivers and/or food
 17 delivery employees and routinely failed to pay
 18 them overtime compensation of one and one-half
 19 times their regular rates for those hours that
 20 they worked in excess of forty per week".
 21 Do you see that paragraph?
 22 A. Yes, paragraph 11.
 23 Q. Other than yourself, who were the
 24 similarly situated drivers you're referring to
 25 in that paragraph?

1 J. Guzman
 2 the stops and the mileage.
 3 Q. What did Alex tell you?
 4 A. Alex told me it was \$4 a stop because he
 5 was in Brooklyn and Queens.
 6 I also spoke to Fernando, and he told me
 7 it was \$3 a stop for the city that he get paid,
 8 and I also spoke to Nafis that used to do the
 9 city as us. He get paid \$4 in the city.
 10 Q. Do you know what Correa's route was?
 11 A. His route was in Jersey. I don't know
 12 the specifics of his route. I know it was
 13 something in Jersey.
 14 Q. Looking at paragraph 12 of Defendant's
 15 66, it refers to an Exhibit A, and in that
 16 paragraph, you say, "I recognize the majority
 17 of persons listed".
 18 I'm going to ask for you to look at
 19 Exhibit A and tell me which of the people you
 20 recognize on that exhibit.
 21 A. Okay. That's easier.
 22 Julian Alvarez I recognize. I recognize
 23 Kenneth Chow, Syed.
 24 MR. ANDREWS: Can you read the
 25 last name?

1 J. Guzman
 2 of the client that were there for Monday would
 3 be the same one for Tuesday, would be the same
 4 one for Wednesday. The client would order the
 5 food every single -- they would be on the
 6 program for every single day.
 7 Q. There were some that had daily
 8 deliveries?
 9 A. Yes, most of them.
 10 Q. Did you use your own car to perform the
 11 deliveries?
 12 A. Yes.
 13 Q. What car was that?
 14 A. When I started, it was a -- a 1990 -- I
 15 believe it was 1999 BMW 528, and towards the
 16 end of my time there, it was a 2002 Audi A4.
 17 Q. Were these cars owned by you?
 18 A. Yes.
 19 Q. Why did you switch cars?
 20 A. The -- the BMW was not holding up for
 21 the route. It needed a lot of repairs and
 22 stuff like that, so I ended up just getting
 23 another car.
 24 Q. Did you have insurance for the cars?
 25 A. At that time, I had insurance for the

1 J. Guzman
 2 that I submitted with -- I submitted the
 3 registration and the insurance card.
 4 MR. POLLACK: I'm going to make
 5 a request.
 6 A. Yes.
 7 Q. What'd you say you submitted?
 8 A. I believe it was -- I know the insurance
 9 card is there, and I believe there was a
 10 registration for the vehicle that I submitted
 11 to my attorney, I believe it was.
 12 Q. Did you pay for any repairs to the car
 13 on your own?
 14 A. Yes.
 15 Q. Did you ever seek reimbursement for
 16 those repairs?
 17 A. No.
 18 Q. Did you pay for the car's maintenance?
 19 A. Yes.
 20 Q. Did you ever seek reimbursement for the
 21 maintenance?
 22 A. No.
 23 Q. Did you ever take any breaks during the
 24 time you performed deliveries?
 25 MR. ANDREWS: Objection.

1 J. Guzman
 2 BMW. Actually, right now, I have insurance for
 3 the Audi.
 4 Q. Did you pay for the insurance?
 5 A. Yes.
 6 Q. Do you know who the insurance was
 7 through?
 8 A. I -- it was -- now, it's -- I have IFA.
 9 At that time, it was -- I believe it was
 10 Prudential.
 11 Q. What do you have now?
 12 A. I have IFA. It's a company from New
 13 Jersey.
 14 MR. ANDREWS: IA?
 15 THE WITNESS: IFA.
 16 MR. ANDREWS: IFA?
 17 THE WITNESS: Uh-huh.
 18 Q. That's for the 2002 Audi A4?
 19 A. Yes.
 20 Q. Do you know what insurance, if any, you
 21 had for the BMW?
 22 A. It -- it was -- actually, to answer
 23 that, I submitted in a copy of that just so
 24 that I don't say something that I'm not, you
 25 know, correct. There's actually a document

1 J. Guzman
 2 A. No.
 3 Q. You never stopped to eat?
 4 A. Well, I did not stop to eat. If I had
 5 to eat something, I would take it before I
 6 start my -- my shift, and I would just eat on
 7 the way where I was driving.
 8 Q. You never stopped for any reason during
 9 the deliveries?
 10 A. No, unless I had like a tire that
 11 puncture and stuff like that.
 12 The time did not allow you to actually
 13 sit down and have food because, you know, you
 14 have to try to finish as soon as possible
 15 because since you on the road, you don't know
 16 what -- you know, the night might be going
 17 perfect, and you might have ten deliveries and
 18 at 4:00 in the morning you know you can get
 19 them done in, you know, the matter of an hour
 20 and a half or an hour, and then you get a
 21 punctured tire. So, you know, you don't want
 22 that to happen.
 23 Q. Would you ever call Syed during the time
 24 you were performing deliveries?
 25 A. Yes, I would call Syed multiple times

1 J. Guzman
2 while performing deliveries.
3 Q. For what reason would you call Syed?
4 A. I would call when I could not find an
5 address. I would call when the client was not
6 answering. I would call if the key was not in
7 the -- in the ring where all the keys were for
8 the delivery. I would call if I had any issues
9 with my vehicle. Let me see what else I can
10 remember. If, for any reason, I was running
11 late on the deliveries, you know, because of
12 traffic or anything, I had to call Syed with
13 times so that he can arrange to help get the
14 deliveries done on time, like someone would
15 come help.
16 Q. Did that ever happen?
17 A. To me, it happened one time, just one
18 time.
19 Q. Were you ever unavailable between
20 January and May of 2012 to make deliveries?
21 A. No, I was not -- I was never
22 unavailable. The only thing that I did was
23 there was a time where I took a trip to Costa
24 Rica for -- I believe it was four days. I
25 would have to look into my passport to get the

1 J. Guzman
2 did a route. It was still cold at that time,
3 and it was raining, and for some reason, I
4 caught a horrible cold, and I called in. It
5 was -- I believe it was one or two days. It
6 was no more than one or two days that I just
7 couldn't get up from bed, and I called Syed,
8 and Syed told me to just rest for that one or
9 two days and, you know, come back once I feel
10 okay, and that was it. I don't -- I don't have
11 any other -- I don't recall any other time I
12 took any time off.

13 Q. Did your routes change after you took
14 those one to two days out for being sick?
15 A. No.

16 Q. Did you ever submit any type of expense
17 report to Syed for any expenses you incurred
18 for making deliveries?
19 A. No.

20 Q. How often were you paid?
21 A. Weekly.

22 Q. Did you have any other source of income
23 besides the payment you received from
24 Late Night between January 2012 and June 2012?
25 MR. ANDREWS: Objection.

1 J. Guzman
2 exact dates. It's still there. With prior --
3 you know, with approval from Syed. I actually
4 spoke to him about a month and a half before I
5 was going to plan to do that trip, and I had an
6 approval, a verbal approval, from him. He said
7 yes, okay, I'll get you someone to cover for
8 that area.

9 Q. You went on that trip?
10 A. Yes, I went on that trip. I have my
11 passport. I can provide those dates.

12 Q. I'm going to leave a blank in the
13 transcript, and when you have a chance to
14 review it, if you can, just insert that
15 information.

16 A. Okay.
17 (INSERT) .

18 MR. ANDREWS: The dates of his
19 trip to Costa Rica?

20 THE WITNESS: Yeah. I'll send
21 it in.

22 Q. Other than not being available for the
23 Costa Rica trip, did you ever call and say you
24 could not come in to perform deliveries?

25 A. Yes. There was one other time where I

1 J. Guzman

2 A. No.

3 Q. What did you do during the days that you

4 performed deliveries?

5 A. Rephrase that.

6 Q. What did you do during the daytime?

7 A. During the daytime, I would sleep, rest

8 a lot. I would rest a lot, and then once I

9 wake up, just take a shower, get something to

10 eat, and just go straight to work.

11 Q. How did the relationship with The Fresh

12 Diet end?

13 MR. ANDREWS: Objection, asked

14 and answered.

15 A. What was it?

16 Q. How did the relationship with The Fresh

17 Diet end?

18 MR. ANDREWS: How did your

19 relationship --

20 A. My relationship? Can you elaborate more

21 on that?

22 Q. You stopped in June 2012, correct?

23 A. Yeah. In June, I had no more work.

24 Q. It said that, I believe, the last day

25 you performed any work was June 26 --

1 J. Guzman

2 A. June 26, I believe.

3 Q. -- 2012, correct?

4 A. Yes, I believe so. Yes.

5 Q. Do you know if you were ever terminated?

6 MR. ANDREWS: Objection.

7 A. No, I don't know. I don't know

8 anything. It just ended the way that I told

9 you, just by -- just neglect, being neglected,

10 neglected, neglected.

11 Q. Did you ever receive any type of

12 benefits from The Fresh Diet?

13 MR. ANDREWS: Objection.

14 A. No.

15 Q. That was a no?

16 A. No.

17 Q. I believe you testified earlier that

18 taxes were not taken out of your pay, correct?

19 A. No.

20 Q. No, they were not?

21 A. No, they were not taken out.

22 (Whereupon, 2012 1099 form was

23 marked as Defendant's Exhibit 68, for

24 identification, as of this date.)

25 Q. I'm now going to show you what's been

1 J. Guzman
2 accountant.
3 Q. Was it with an accountant or a firm?
4 A. It was a -- I did it in -- in
5 Pennsylvania with someone who does taxes at an
6 office.
7 Q. Do you know if you filed a Federal tax
8 return?
9 A. I don't know anything about taxes. I
10 just hand them over, and they did everything,
11 like brought the documents over. They did
12 everything.
13 MR. POLLACK: I'm going to make
14 a request for the production of the tax
15 return from 2012 --
16 A. Okay.
17 MR. POLLACK: -- State and
18 Federal.
19 Q. 2012 was the only calendar year that you
20 performed any delivery work for The Fresh Diet,
21 correct?
22 A. Yes.
23 MR. ANDREWS: Just to clarify,
24 Yale, you were asking about his tax
25 returns for the year 2012, not tax

1 J. Guzman
2 marked for identification as Defendant's
3 Exhibit 68, and I'm going to ask if you've ever
4 seen that document before today (handing).
5 A. Yes.
6 Q. Do you understand what that document is?
7 A. It's concerning my taxes.
8 Q. Does your name appear on the document?
9 A. Yes.
10 Q. Does that accurately reflect any
11 compensation you received?
12 A. Yes.
13 Q. What number reflects that?
14 A. \$15,082.
15 Q. That's what you received in 2012?
16 A. Yes.
17 MR. ANDREWS: Objection.
18 Q. Did you file a tax return in 2012?
19 A. Yes. I filed these taxes (indicating).
20 Yes.
21 Q. When you say you filed "these taxes,"
22 what do you mean?
23 A. I took the -- whatever I got in the mail
24 from Fresh Diet -- I think it was February or
25 January -- and I went to file at a -- at an

1 J. Guzman
2 returns that would have been filed in
3 2012 but tax returns for 2012?
4 MR. POLLACK: Tax returns for
5 2012 reflecting the compensation
6 indicated on the 1099 marked as
7 Defendant's 68.
8 MR. ANDREWS: I just wanted to
9 clarify because I think the record was
10 unclear. That's fine.
11 Q. Did you just file one tax return for
12 2012?
13 MR. ANDREWS: Objection.
14 A. I don't know.
15 Q. Did you file quarterly?
16 A. No, just one time. I just went -- when
17 I got -- I guess -- I only received one form in
18 the mail from Fresh Diet, and when I had it,
19 then I went to and took it in.
20 Q. Do you remember when that was?
21 A. 2013. I believe it was in the first two
22 months, whenever that was.
23 Q. Do you know if your accountant deducted
24 any expenses on your tax return?
25 MR. ANDREWS: Objection.

1 J. Guzman

2 A. No, I don't know.

3 Q. Do you know the name Judah Schloss?

4 A. No.

5 Q. Do you know the name Zaimi Duchman?

6 A. No.

7 Q. You previously testified that you no

8 longer have the cell phone that you

9 communicated with Syed with.

10 A. Yeah, I don't have either or.

11 (Whereupon, Text messages Were

12 marked as Defendant's Exhibit 69, for

13 identification, as of this date.)

14 Q. Now I'm going to show you a document

15 that's been marked as Defendant's Exhibit 69,

16 Date stamp number FD000080 through 000092

17 (handing).

18 I'm going to ask if you recognize what

19 is in these documents.

20 A. Yes, I've seen these before.

21 Q. When have you seen those before?

22 A. I believe it was on Syed's affidavit.

23 I'm not sure. I believe it was.

24 Q. Do you know what these are?

25 A. Text messages.

1 J. Guzman
2 response to?
3 A. No, because it's not here. Whatever
4 conversation was before then is not here.
5 Q. Do you see above where it says "Me:
6 Brooklyn qns"?
7 A. That's Syed. Syed said "Brooklyn qns,"
8 which means the route in Brooklyn/Queens, but
9 there's nothing on top of that. I'm pretty
10 sure I can recall there was more text on top of
11 that.
12 Q. Was this part of your regular route at
13 that time, "Brooklyn and qns"?
14 MR. ANDREWS: Objection.
15 A. No.
16 Q. You said, "Okay how many stops,"
17 correct?
18 A. Where is that? Which one is that on?
19 Q. The first text.
20 A. Okay. I see it. Yes.
21 Q. Why were you asking how many stops that
22 was?
23 A. Because that wasn't my regular route,
24 and that was Alex, a gentleman named Alex, his
25 route. I remember his wife was -- his wife was

1 J. Guzman
2 Q. Do you know who they're between?
3 A. Me and -- Juany and me, which, I
4 believe, is Syed.
5 Q. Was your telephone number, in January
6 2012, 646-393-6534?
7 A. Yes.
8 Q. Did you have that same phone number
9 until June 2012?
10 A. Yes.
11 Q. Looking at the entry on FD000080, do you
12 see the text next to Juany where it says, "Okay
13 how many stops bbecause I will be in a lil late
14 because I have to wait for my wife to get home
15 like at 8"?
16 A. Yes.
17 Q. Do you see that that was sent on
18 May 23rd?
19 A. Yes.
20 Q. Was this the first time you had ever
21 said that you were going to be late?
22 MR. ANDREWS: Objection.
23 A. I don't recall. I don't believe so it
24 was the only time, but I don't recall.
25 Q. Do you know what text this was in

1 having some problem. I don't know if she was
2 pregnant or something. Something was going on,
3 and since I had a good relationship with Syed,
4 Syed asked me if I can, you know, cover that
5 route when Alex couldn't get it done. So I
6 never said no. I just say yes.
7
8 And the reason why I wrote "how many
9 stops" is because that route is very difficult
10 to conduct, that route.
11
12 Q. How do you know that?
13 A. Because I did it a couple times, and it
14 was very difficult to do that route for the
15 simple fact that, you know, New York City
16 streets are like, you know, numbers, and down
17 here -- in this area, Downtown, you have
18 certain streets with names, but in this route,
19 you might have a stop in one part of Brooklyn,
20 then you have to drive all the way to Queens,
21 and over there is all just names, names, names.
22 So it was a lot -- it was a lot more, you know,
23 difficult to learn that route.
24
25 Q. I thought you had testified earlier that
before early June 2012 you had only done
Manhattan.

1 J. Guzman
2 Is that an incorrect statement?
3 MR. ANDREWS: Objection.
4 A. Probably, because the thing with dates,
5 when you have almost two years that you haven't
6 seen something, it's very hard for your mind to
7 just say a specific date, you know. I could
8 say more or less, but being specific is kind of
9 tough when it's been like, you know, two years.
10 The other thing, actually, I can
11 remember from this text from reading it now,
12 one of the reason why I say that is because,
13 like I was telling you earlier, I always like
14 to finish on time just to make sure that, you
15 know, the client got their food on time and
16 everybody's happy, and the reason why I asked
17 that because the situation at that moment where
18 my wife was not home, or my girlfriend was not
19 home, I wanted to make sure that I didn't have
20 exaggerated amount of stops that I cannot
21 finish on time because, you know, with Fresh
22 Diet, the most important thing is that the
23 client gets their meal before they wake -- you
24 know, they wake up in the morning.
25 Q. Is it your testimony that it's tougher

1 J. Guzman
2 legal document that I am married with Andrea.
3 Q. Andrea was the person --
4 A. Yes.
5 Q. -- you were referring to?
6 A. Yes.
7 MR. POLLACK: Let's take a quick
8 break.
9 (Whereupon, a recess was taken
10 at this time.)
11 Q. Just continuing --
12 A. Sure.
13 Q. -- with Defendant's 69.
14 That text is from you, correct?
15 A. The first one, the one that says,
16 "Juany," yes.
17 Q. The one next to Juany saying, "Okay how
18 many stops," correct?
19 A. Yes.
20 Q. Does this indicate that you would not be
21 able to show up to the facility because your
22 wife was not home?
23 MR. ANDREWS: Objection.
24 A. No. I did show up to the facility that
25 day.

1 J. Guzman
2 to remember dates today than it was a year ago
3 or in June 2012 regarding the incidents that
4 you're claiming in this action?
5 MR. ANDREWS: Objection.
6 A. It's a lot -- a lot harder as time
7 passes, which is -- that's common.
8 Q. Is it fair to say that the July 2012
9 affidavit marked as Defendant's 64 would have a
10 more accurate description of dates --
11 MR. ANDREWS: Objection.
12 Q. -- since it was closer in time to the
13 time you worked for The Fresh Diet?
14 MR. ANDREWS: Objection.
15 A. That would depend.
16 Q. It says, again, looking at text messages
17 on FD000080, that you have to wait for your
18 wife to get home "like at 8:00".
19 Do you see that?
20 A. Yes.
21 Q. Who is your wife?
22 A. I don't have a wife. I just say like
23 that. I'm not married, you know. Just like
24 when you are together with someone, you refer
25 to them as your wife, but I don't have any

1 J. Guzman

2 Q. Did you have to wait for your wife to

3 come home before you left that day?

4 A. Yes, because of my son. I didn't have

5 someone to take care for him that day.

6 Q. Did anyone else besides you and -- I'll

7 refer to her as Andrea --

8 A. Yeah, Andrea.

9 Q. -- look after your son on the days you

10 performed deliveries for The Fresh Diet?

11 A. Yes, Andrea's mother.

12 Q. How frequently would she look after your

13 son?

14 A. Almost all the time, almost.

15 Q. What does Andrea do for work?

16 A. She's a teller at Wells Fargo, but

17 that's now. At that time, she worked at JFK

18 Airport.

19 Q. Did she work at JFK Airport from

20 January 2012 until June 2012?

21 A. Yes.

22 Q. Were her hours consistent?

23 MR. ANDREWS: Objection.

24 A. I believe so. I don't recall perfectly,

25 but I believe so.

1	J. Guzman	1	J. Guzman
2	Q. What were her hours?	2	A. I don't recall right now.
3	A. Like morning time to -- to the	3	Q. Do you know if it happened on any other
4	afternoon.	4	instances besides May 23rd?
5	Q. What time would she leave for work?	5	A. I don't recall right now.
6	A. I believe she had to be in at work	6	Q. Do you know what time you sent this text
7	before 9:00, I believe, 9:00 in the morning,	7	message?
8	and then she would come out -- I don't know the	8	A. I'm pretty sure it was early, you know,
9	exact time she would come out, but then she	9	because I usually -- I usually tell people
10	would have to take the bus and the train to get	10	ahead of time so that we could plan things, but
11	home.	11	I cannot see it here in this document, in this
12	Q. Were you home when she left for work?	12	exhibit.
13	A. Was I home when she left for work? Yes,	13	Q. Do you know --
14	I was.	14	A. Oh, it's -- no. No. That's not it. I
15	Q. You were done completing deliveries --	15	thought this was the time, but that's not
16	A. Yes.	16	(indicating). That's the time that they took
17	Q. -- before she left --	17	the picture of this. No, I can't tell, from
18	A. Yes.	18	the document, the time.
19	Q. -- for her job?	19	Q. Do you see the next message from "Me"
20	A. Yes.	20	says, "47"?
21	MR. ANDREWS: Objection.	21	A. Yes.
22	A. Yes.	22	Q. Do you know what that means?
23	Q. Do you know what time she left?	23	A. It was relating to the question that I
24	A. Yes.	24	asked, how many stops on that route. He says
25	Q. What time?	25	"47" stops.

1	J. Guzman	1	J. Guzman
2	A. What I would do is when I finish	2	Q. Forty-seven stops?
3	everything, I would drive home, and I -- she'll	3	A. Uh-huh.
4	be ready with my son, and what I'll do is I'll	4	Q. Is that next entry next to Juany your
5	drive from -- from the house -- her mother --	5	response to the "47"?
6	her mother lives on the way to the airport. We	6	A. Yes. Should I read it or --
7	would drop off Adrian, and then I would drop	7	Q. I'll read it.
8	her off at the airport, and I would go home to	8	It says, "Boss I don't think ill finish
9	sleep, and then she would come on the train	9	by 5 am because last time I finished at 5 and I
10	back, would pick up my son and come back on the	10	started at 8 I will be getting to the warehouse
11	train most of the time.	11	around 930 boss".
12	MR. ANDREWS: We're going to	12	Do you see that?
13	object to the use of your son's name in	13	A. Yes.
14	any subsequent activities in this case.	14	Q. Is that text from you?
15	THE WITNESS: Okay.	15	A. Yes.
16	Q. What time would she typically get home?	16	Q. That's to Syed?
17	A. She -- I really don't know the exact	17	A. Yeah, Syed.
18	time because I was not home when she gets home	18	Q. For May 23rd, do you know what time you
19	most of the time.	19	showed up to the warehouse?
20	In this instance, I was home for the	20	A. I don't recall. If -- if -- if my wife
21	fact that her mother could not take care of my	21	was going to be home at 8:00 and I left at
22	son that day, so I had to take her to work and	22	8:00, I would say it would be like 30-minute
23	stay with my son.	23	drive. I think it's like a 30-minute drive if
24	Q. Other than on May 23rd, do you remember	24	there's no traffic or so.
25	any other instances where that happened?	25	Q. Do you know why you said you weren't

1 J. Guzman
 2 going to be at the warehouse until 9:30 that
 3 night?

4 A. Probably because, you know -- for
 5 example, the way that I am is if -- I like to
 6 be, you know -- I don't like to say I'm going
 7 to be at a place at a time and be there late.
 8 I rather be there before I get there.

9 So if my wife is coming on the train and
 10 she's going to get there at 8:00 that she tells
 11 me, you know, I know it takes me about thirty
 12 minutes, but, you know, you never know what can
 13 happen. So I rather give, you know, more ample
 14 time so that -- you know, probably I was there
 15 before 9:30, but I like to give myself ample
 16 time. I don't like to be late.

17 Q. In that text, it's referring to some
 18 other time where it says, "last time I finished
 19 at 5 and I started at 8".

20 Do you see that?

21 A. Yes, what this --

22 MR. ANDREWS: What page are we
 23 on?

24 THE WITNESS: The first page,
 25 the first page.

1 J. Guzman
 2 Q. Were you disciplined for showing up late
 3 to work that night?

4 MR. ANDREWS: Objection.
 5 A. No, I was not disciplined because I
 6 always let Syed know of the situation ahead of
 7 time. You know, I let him know ahead of time
 8 so we could figure out, you know, how to -- to
 9 figure out, you know -- to get the food to the
 10 client. So I would never just not -- you know,
 11 just be late just to be late. I would always
 12 let him know hours and hours ahead of time
 13 anytime I had any situation with anything.

14 Q. If you let him know in advance, you were
 15 not disciplined?

16 MR. ANDREWS: Objection.
 17 A. I was not disciplined. I don't know if
 18 somebody else was disciplined. I was not
 19 disciplined.

20 I had a good relationship with Syed
 21 where I was always, you know, clear with him
 22 that, you know -- just go and do my job, and so
 23 if -- if at any time -- if I ever was late, he
 24 would always know hours and hours ahead of
 25 time, you know, if something was going to

1 J. Guzman
 2 A. I'm going to explain the whole text.
 3 Q. Well, I just have a question.

4 Was there a last time that you remember
 5 that you were referring to?

6 A. I believe the -- prior to this date,
 7 which, as I said, it's missing text here, I
 8 covered for -- probably covered for Alex, and
 9 that time, my first delivery at the first door
 10 was at 8:00, and I did not finish the entire
 11 route until 5:00 a.m., which is, you know, that
 12 cut-off time where all the clients should have
 13 their meal. So I'm letting Syed know that, due
 14 to the situation, I don't think that
 15 forty-seven stops I was able to finish at
 16 5:00 a.m., you know. So I was trying to figure
 17 out how we can work that out so that the
 18 clients can get their food on time, the last
 19 clients.

20 Q. Based on that last one that you did,
 21 that last route for the similar stops,
 22 situation, you thought that you were going to
 23 finish your deliveries on May 23rd later than
 24 5:00 a.m.?

25 A. Yes.

1 J. Guzman
 2 happen. I would not just stay quiet just for
 3 him, you know, figure out that I was going to
 4 be late, you know, that I was going to be late
 5 and he didn't know about it.

6 Q. Do you know what time you were scheduled
 7 to go in to work that day?

8 A. 5:00 usually, the time that we worked.

9 Q. 5:00 p.m.?

10 A. Yes.

11 Q. Looking on the next page, FD000081 of
 12 Defendant's 69, do you see the entry where it
 13 says, "Juany: Juany Guzman NYC2 Stops 37 @ \$4
 14 Empty 36"?

15 A. Yes.

16 Q. Is that a text from you?

17 A. Yes, it's a text from me.

18 Q. Is that to Syed?

19 A. Yes.

20 Q. What does "NYC2" mean?

21 A. It means that I was covering Alex's
 22 route, and it's the amount of stops, and the
 23 reason why I put "@ at \$4" is because I did not
 24 want him to -- because you spend a lot more gas
 25 on that route, so I did not want to him to

1 J. Guzman
 2 forget that, you know -- because I'm usually
 3 getting paid at \$3, but if I cover Alex's
 4 route, it needs to be at 4 to compensate the
 5 fuel.
 6 Q. Do you know why there were thirty-seven
 7 and not forty-seven stops that night?
 8 A. He said in one prior, "I'll split it".
 9 Q. What does that mean to?
 10 A. To me, "I'll split it," it means that
 11 he's going to try to -- some of the stops, you
 12 know, put it to someone else to do it so that
 13 we can finish on time.
 14 Q. The next entry under that says, "Juany:
 15 Juany Guzman Nyp Stops 27 Empty 22".
 16 Do you see that?
 17 A. Yes.
 18 Q. Do you see that from May 24th?
 19 A. Yes.
 20 Q. What is "Nyp"?
 21 A. That's Route P. That's what we were
 22 speaking before, Manhattan area, that Lower
 23 Manhattan area.
 24 Q. That's your regular route?
 25 A. Yeah, and the other -- I can't see the

1 J. Guzman
 2 It's like right there. So sometimes, let's
 3 say, I'm going to -- because the system --
 4 let's say I'm going to 23rd Street but the NYR
 5 goes to 23rd Street, so instead of, you know,
 6 giving the NYR one, his last stop before that
 7 235th Street is at 28th Street, and I'm already
 8 going to be at 23rd Street but one block west,
 9 he would just give me the stops. Like he just
 10 used to do the logistics so that we can finish
 11 faster. So that's why I put "nyr2" because
 12 it's part of P and part of NYR2, like one or
 13 two stops.
 14 Q. When it says "yesterday" --
 15 A. Yesterday.
 16 Q. -- what does that mean?
 17 MR. ANDREWS: Objection.
 18 A. I'm not sure. I'm trying -- I cannot
 19 read the one before it, so I can't figure out
 20 why it would say "yesterday".
 21 Q. Two entries after that, it says, "Juany:
 22 Nyp Stops 26 Empty 18".
 23 Do you see that?
 24 A. Yes.
 25 Q. That's from May 31st?

1 J. Guzman
 2 other one under that.
 3 Q. Let's go to the next page.
 4 Looking at FD000082, it says, "Juany:
 5 53 stops nyp nyr2 yesterday".
 6 Do you see that?
 7 A. Yes.
 8 Q. That's from May 30th?
 9 A. Yes.
 10 Q. What does "53 stops nyp nyr2" mean?
 11 A. Yes. That means that -- last time, I
 12 had the situation where he split, and there was
 13 ten stops that was shared with someone else to
 14 get the time done. When this happens, it means
 15 that when I was doing the route, he -- probably
 16 somebody left a bag or he has three bags that
 17 are new clients, and he would just add it to my
 18 route, to my regular route, so that, you
 19 know -- logically, it makes more sense for
 20 the company to do it that way than to put more
 21 burden on somebody else in the route.
 22 Q. Where do you get that from? Is that
 23 from "nyr2"?
 24 A. Yeah.
 25 NYR2 is the route right on top of NYP.

1 J. Guzman
 2 A. Uh-huh.
 3 Q. The following entry says, "Juany:
 4 Yesterday stops 24".
 5 Do you see that?
 6 A. Yes.
 7 Q. That's also from May 31st, right?
 8 A. Yes.
 9 Q. What does "Yesterday stops 24" mean?
 10 MR. ANDREWS: Objection.
 11 A. I can't figure out here. I can't figure
 12 out because it says 31st, 31st on the top --
 13 there's two text messages that says 31st --
 14 three text messages that says 31st. And then
 15 there's 30th. There's -- May 30th is one text.
 16 I can't figure out because it's three texts.
 17 Q. Did you ever report the amount of stops
 18 you did for a particular night the following
 19 day?
 20 MR. ANDREWS: Objection.
 21 A. I'm trying to recall. Probably.
 22 MR. ANDREWS: The question is
 23 vague. His stops always ended the
 24 following day in the early morning
 25 hours.

1 J. Guzman

2 A. No. I can't tell from -- I can't tell

3 from the -- this text.

4 Q. Do you know if you were driving a

5 different route?

6 A. I can't -- it's -- it's been -- I can't

7 tell because it's not there.

8 Q. What about for the entry that says,

9 "Juany: Juany Guzman Stops 43 Empty 36" from

10 June 5th?

11 Do you know what route that is for?

12 A. I don't remember.

13 Q. Now looking at the following page,

14 FD000084, it says, "Juany: Juany Guzman Stops

15 41 Empty 36" from June 7th.

16 Do you see that?

17 A. Yes.

18 Q. Do you know what route that's for?

19 A. Based on this document, I can't

20 remember. I can't tell.

21 Q. If you were ever driving a route besides

22 Route P, did you indicate what route you had

23 just driven?

24 A. Probably. Probably, yes, but if it

25 was -- if it was in the city -- let's say,

1 J. Guzman
2 Do you see that?
3 A. Yes.
4 Q. Do you know if your route had been
5 changed by June 8, 2012?
6 A. June 8, 2012? No, I don't recall if it
7 was.
8 Q. Had you ever done a route that only
9 consisted of ten stops before June 8, 2012?
10 A. I don't recall. Not typically. I don't
11 recall.
12 Q. Do you believe that this is one of the
13 routes that were cut from you?
14 MR. ANDREWS: Objection.
15 A. From -- from -- more or less, from that
16 day on, that's when more -- more -- you know,
17 things were just -- the -- the -- it just
18 started to go like down, you know, where I
19 noticed that, you know, maybe I don't have a
20 stop, maybe I do, and the only time that I
21 would do like more stops is if Alex would call
22 that his wife -- you know, in a situation about
23 his wife. That was the only way that I would
24 receive some stops after this date.
25 You know, if it was for Manhattan, he

1 J. Guzman
2 someone was sick or anything and I had to cover
3 for someone on their route or a certain amount
4 of stops get put on, unless Syed requested me
5 to, I usually did not put like a number,
6 whatever, because it was not important because
7 at the end of the day, what the text was mostly
8 for was for stops and empties.
9 Like I just used to do extra. I used to
10 try to put so he could remember where it was
11 because the manifest's the one that does that
12 job. This was just for him not to come to the
13 office in the morning so that way he could do
14 it from his house.
15 Q. Looking at the next entry, June 8th, it
16 says, "Juany: Juany Guzman Stops 10 Empty 7".
17 Do you see that?
18 MR. ANDREWS: That's June 7th?
19 A. June 7th?
20 Q. Then it says June 8th underneath.
21 MR. ANDREWS: I'm sorry. You're
22 talking about the thing in between the
23 June 7th and June 8th?
24 Q. It says, "Juany: Juany Guzman Stops 10
25 Empty 7".

1 J. Guzman
2 would just do whatever was, you know, more
3 convenient. He would just give me like seven
4 stops, ten stops, something like that, which at
5 that point, I didn't have to send a text in
6 because I wasn't picking up numbers of bags
7 after that.
8 Q. You earlier testified that you believed
9 you were retaliated against after the company
10 was served with the complaint.
11 Is that accurate?
12 MR. ANDREWS: Objection.
13 A. I believe so.
14 Q. By "retaliated against," you meant that
15 the number of stops you were assigned was
16 reduced?
17 A. Yeah.
18 For example, from the time that he found
19 out -- not from the time that it was served,
20 from the time that he found out, everything
21 changed. You know, after that time he found
22 out, there was no verbal communication between
23 us, you know, like -- like -- like before, you
24 know, we would come in hey, how you doing, Bro,
25 and like that. It was not like that, you know.

1 J. Guzman

2 I'm driving towards the facility, and it's not
3 fair for me not to know anything, and I get
4 there, and then there's not nothing for me, so
5 --

6 And then I wrote that's a waste of my
7 time and time is money because if I don't do a
8 route, I don't get paid, and if I drive from my
9 house to the warehouse, that's wasting money.

10 Q. How were you wasting money if you're
11 driving from your house to the warehouse?

12 MR. ANDREWS: Objection.

13 A. That's -- that's common sense. If you
14 drive from Long Island to here, to New York,
15 and when you get here, your boss tells you you
16 don't have work, you just wasted money on gas.

17 Q. On gas?

18 A. Yeah, on gas, and, you know, you can't
19 waste money on gas when you don't have stops
20 for -- no work for a week.

21 Q. Were you looking for other positions in
22 the end of June 2012?

23 A. No, I was not. I was not looking for
24 other positions at that time. I considered
25 myself an employee for Fresh Diet. I was just

1 J. Guzman

2 come to work, we don't need you here, and then
3 I can move on with my life and go and look for
4 an employment, but I considered myself an
5 employee at that time.

6 Q. As of June 27, 2012?

7 A. Yeah. Around that time I considered
8 myself an employee.

9 There's a lot more texts from that same
10 day because he gave me like some runaround. He
11 said oh, didn't Owen text you, no, I didn't
12 receive anything.

13 Q. Looking at FD000087, do you see that
14 last text that says, "Me: Maybe c2 or a
15 connecticut?"

16 A. Yes.

17 Q. Do you know what that means?

18 A. Yes.

19 Q. What does that mean?

20 A. At that time, since I had that
21 conversation with him on the last page that we
22 didn't go over, he knew for a fact that my car
23 was not -- especially given my financial
24 struggle at that time for not having a stable
25 income for those weeks, he knew that if he

1 J. Guzman

2 trying the figure out, you know, when he was
3 going to stop being a knucklehead and, you
4 know, just for me to have the work that I
5 always had before.

6 Q. When you said "time is money," what did
7 you mean by that?

8 MR. ANDREWS: Objection, asked
9 and answered.

10 Answer it one more time, and
11 then we're going to move on.

12 A. Yeah, the same thing. If I drive from
13 my house to somewhere for an hour or half an
14 hour and I have to put gas and sit in a car and
15 go there, I'm wasting my time, and I'm wasting
16 money on gas.

17 Q. How are you wasting your time?

18 A. By the same way. If you drive from Long
19 Island to here, when you get here, your boss
20 tells you there's nothing to do, didn't you
21 just waste an hour of your time? You waste
22 your time. I waste my time going there because
23 if you don't want me to do my work, just tell
24 me, you know. Just tell me hey, we don't need
25 your services anymore, we don't need you to

1 J. Guzman

2 offered me -- if he would say I maybe have
3 something in Connecticut, there's no way I can
4 get to Connecticut. There's no way, given
5 those weeks without having any money coming in,
6 that I can put gas, tolls, and drive up there
7 with a car that I probably didn't change my oil
8 at that time to drive all the way up to
9 Connecticut because if I get stranded in the
10 middle of the road, they're not going to come
11 out with AAA to help me out. So that's why he
12 sent that because he knows that I wasn't going
13 to be able to do that route. Yeah, it's there.

14 Q. Looking at the next page, FD000088,
15 there's a text, "Juany: I can't do connecticut
16 my car is not good enough to go out there".

17 Do you see that?

18 A. Yes.

19 Q. Is that what you were just referring to?

20 A. Yeah. That was my personal situation at
21 the time.

22 Q. Then the next one says, "Me: Ok.

23 Nothing else available then."

24 Do you see that?

25 A. Yes. That's -- Syed wrote that. Yes.

1	J. Guzman	1	J. Guzman
2	Q. Is that in response to your text message	2	the June 27th, "Looks like it's covered," and
3	above?	3	then after that, he wrote, "I'm going to sleep
4	A. Yes, that's in response to the text	4	contact owen if you need any info". So I did
5	message.	5	as he stated, and I contacted Owen, and Owen
6	Q. Now looking at the next one, it says,	6	then told me that I had a C2 because Alex was
7	"Juany: Not even C2".	7	not going to be able to do it, and that's why
8	Do you see that?	8	it seems as that day I did that route.
9	A. Yes.	9	And this text here, the one that you're
10	Q. What does that mean?	10	relating to, shows the route, the stops, the
11	A. At that time, it was -- do you remember	11	empty, and then if I had any trouble, I would
12	what I told you about the situation with Alex,	12	write in the bottom. That's what's there, you
13	where sometimes he didn't come? So I respond	13	know, just to make sure that he contacts the
14	to him, so you don't -- not even Alex, you	14	client to let him know that the bag is next to
15	know, Alex's route, there's nothing there. He	15	the foyer.
16	said there's nothing. So he had to cover --	16	Q. This indicates that you performed work
17	Q. C2 is a New York route?	17	on June 28, 2013 --
18	A. Yes. That's -- that's the one that I	18	A. Yes.
19	said that, you know, you go to Queens, Long	19	Q. -- and that you performed 31 stops for
20	Island, Brooklyn. That's Alex's. He's on the	20	that route.
21	list, Alex's route.	21	A. Yes.
22	Q. Looking back at FD000087 --	22	Q. You did perform work after
23	A. 87.	23	June 26, 2012.
24	Q. -- the last text on that, it says,	24	Is that an accurate statement?
25	"Maybe c2 or a connecticut".	25	A. Yeah. Seeing this, yes.

1	J. Guzman	1	J. Guzman
2	Do you see that?	2	Q. Now looking at the following page,
3	A. Yes.	3	FD000090, do you see the fourth entry? It
4	Q. Did you understand that Syed was	4	says, "Juany: Juany guzman --
5	offering you Alex's route?	5	A. Yes.
6	MR. ANDREWS: Objection.	6	Q. -- C2 Stops 29 Empty 25".
7	A. I understood that he was telling me the	7	Do you see that?
8	Connecticut route, and he wrote maybe Alex's	8	A. Yes.
9	route, probably -- what I understood there, he	9	Q. Is that from June 29, 2012?
10	wasn't sure if Alex was going to call out or	10	A. Yes.
11	not call out, you know. So that's how I	11	Q. What does that indicate?
12	understood it, type of thing.	12	A. That indicates the same as the other
13	Q. Now looking at FD000089, do you see that	13	texts, the route that I covered, the stops, and
14	first entry? It says, "Juany: Juany Guzman --	14	the empties.
15	A. Yes.	15	Q. After June 8, 2012 --
16	Q. -- Route c2 Stops 31 Empty 41"?	16	A. Which page is that?
17	A. Yes.	17	Q. I'm just asking a question.
18	Q. That's from June 28, 2012?	18	A. Oh, I'm sorry.
19	A. Yes. I see it.	19	Q. -- there were times where you received
20	Q. Does that indicate that you performed	20	in excess of thirty stops for your routes --
21	the C2 route on June 28, 2012?	21	MR. ANDREWS: Objection.
22	A. Yes.	22	Q. -- during that month.
23	I actually -- from reading that text, I	23	Is that an accurate statement now that
24	remember, more or less, what happened that day.	24	you have looked at this document?
25	After that, if you see FD000088, Syed wrote in	25	MR. ANDREWS: Objection.

1 J. Guzman

2 A. Yeah, one or two times, yes.

3 Q. I'm looking at FD000085.

4 You had a route that had forty-three

5 stops on June 25, 2012.

6 A. I'm trying to get to it.

7 MR. ANDREWS: He's asking you

8 about that entry (indicating).

9 A. Okay. I see it here. Say that question

10 again.

11 Q. On June 25, 2012, you had received a

12 route that allowed you to make forty-three

13 stops for that night, correct?

14 A. Yes, on the -- Alex's route, yes.

15 Q. You believe that to be Alex's route?

16 A. Yes.

17 Q. C2?

18 A. Yes.

19 Q. Then on June 28th, FD000089, you

20 received a route that had thirty-one stops,

21 correct?

22 A. Yes, also Alex's route.

23 Q. Then on FD000090 on June 29, 2012, y

24 received a route that had twenty-nine stops,

25 correct?

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1 J. Guzman
2 A. Yes.
3 MR. ANDREWS: Are you okay? Do
4 you need a break or anything?
5 THE WITNESS: No, I'm good.
6 MR. POLLACK: Let's just take a
7 five-minute break. I may not have any
8 other questions.
9 (Whereupon, a recess was taken
10 at this time.)
11 MR. POLLACK: Pending the
12 production of the additional documents
13 that I've requested today, I have no
14 further questions for Mr. Guzman. Thank
15 you.
16 MR. ANDREWS: Thank you.
17 (Time Noted: 3:04 p.m.)
18
19
20 JUANY GUZMAN
21
22 Subscribed and sworn to before me
23 this ____ day of _____, 2013.
24
25 Notary Public

1
2 ERRATA SHEET
3 PAGE/LINE CORRECTION
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
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